



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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## CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2008

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 26 '07*</b>	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sep. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sep. 22
Mar. 21	Apr. 9	Apr. 29	May 14	<b>***May 14***</b>	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	<b>***June 25***</b>	July 16	Aug. 20	Nov. 17
<b>***May 14***</b>	June 4	June 24	July 9	July 11	July 30	Sep. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sep. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
<b>***June 25***</b>	July 16	Aug. 5	Aug. 20	<b>***Aug. 20***</b>	Sep. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sep. 3	Sep. 5	Sep. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sep. 2	Sep. 17	Sep. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sep. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
<b>***Aug. 20***</b>	Sep. 10	Sep. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sep. 5	Sep. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sep. 19	Oct. 8	Oct. 28	Nov. 12	<b>***Nov. 12***</b>	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	<b>***Nov. 26***</b>	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	<b>***Dec. 10***</b>	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	<b>***Dec. 24***</b>	Jan. 14 '09	Feb. 18 '09	May 18 '09
<b>***Nov. 12***</b>	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
<b>***Nov. 26***</b>	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
<b>***Dec. 10***</b>	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
<b>***Dec. 24***</b>	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 5, 2008	September 24, 2008
8	Friday, September 19, 2008	October 8, 2008
9	Friday, October 3, 2008	October 22, 2008

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 9, 2008, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Customer councils, rescind ch 10 Notice **ARC 7064B** ..... 8/13/08  
 Eligibility of charitable agencies—criteria included in campaign, 71.6(1)“f” and “h”  
Notice **ARC 7088B** ..... 8/27/08

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Voluntary CWD program, 64.104, 64.106(3) Notice **ARC 7104B** ..... 8/27/08  
 Meat and poultry program—adoption of federal regulations, 76.1 to 76.4, 76.13, 76.14  
Notice **ARC 7072B** ..... 8/13/08

#### **COLLEGE STUDENT AID COMMISSION[283]**

EDUCATION DEPARTMENT[281]“umbrella”

Washington, D.C., internship grant, ch 16 Notice **ARC 7096B**, also Filed Emergency **ARC 7095B** ..... 8/27/08  
 Barber and cosmetology arts and sciences tuition grant program, ch 17  
Notice **ARC 7098B**, also Filed Emergency **ARC 7097B** ..... 8/27/08  
 Chiropractic loan forgiveness program, ch 33  
Notice **ARC 7102B**, also Filed Emergency **ARC 7100B** ..... 8/27/08

#### **DENTAL BOARD[650]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Guidelines on sedation, amendments to ch 29 Notice **ARC 7107B** ..... 8/27/08  
 Iowa practitioner review committee, 35.1(3) Filed **ARC 7106B** ..... 8/27/08

#### **ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Physical infrastructure assistance program (PIAP) eligibility, 23.7(1), 61.1(2), 61.3(1),  
 61.4(2), 61.5, 61.7(2), 174.3(5) Notice **ARC 7069B** ..... 8/13/08  
 Targeted jobs withholding tax credit program, 71.1 to 71.6 Notice **ARC 7068B** ..... 8/13/08  
 Information technology training program, 103.1 to 103.13 Notice **ARC 7067B** ..... 8/13/08  
 Targeted industries student competition fund, 108.1 to 108.8 Notice **ARC 7065B** ..... 8/13/08  
 Targeted industries career awareness fund, 109.1 to 109.9 Notice **ARC 7066B** ..... 8/13/08  
 Renewable fuel infrastructure program, amendments to chs 311 to 314 Notice **ARC 7074B** ..... 8/13/08

#### **EDUCATION DEPARTMENT[281]**

Open enrollment—method of finance, 17.10 Notice **ARC 7093B** ..... 8/27/08  
 Quality faculty committee; accreditation standards for community college faculty, 21.3,  
 21.31, 21.32, 24.3, 24.5 Notice **ARC 7090B** ..... 8/27/08  
 Iowa self-employment program, 56.20, 56.37 to 56.41 Filed **ARC 7094B** ..... 8/27/08  
 Funding for National Board Certification (NBC) teachers in Iowa, 84.1, 84.3(1)“e,” 84.4(1)  
Notice **ARC 7092B** ..... 8/27/08

#### **HISTORICAL DIVISION[223]**

CULTURAL AFFAIRS DEPARTMENT[221]“umbrella”

Emergency grant program for disaster relief, 50.2, 50.8  
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#### **HUMAN SERVICES DEPARTMENT[441]**

Medical assistance for children in court-approved subsidized guardianship homes, 75.1(11),  
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 Medicaid and FIP—eligibility; alignment of procedures across programs, amendments to chs  
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 78.50(1) Notice **ARC 7058B** ..... 8/13/08  
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 Family support subsidy, 184.9 Notice **ARC 7109B** ..... 8/27/08

#### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

Mobile food units/pushcarts, 31.1(8), 31.7 Filed Emergency After Notice **ARC 7076B** ..... 8/13/08  
 Notification of an occurrence; determination of class of violation, 50.7, 56.9 Filed **ARC 7075B** ..... 8/13/08

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

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 Determining reserve liabilities for preneed life insurance, ch 95 Filed **ARC 7105B** ..... 8/27/08

**IOWA FINANCE AUTHORITY[265]**

- Supplemental cap allocation for 2008, 8.11 Notice **ARC 7101B**, also Filed Emergency **ARC 7099B** ..... 8/27/08  
 Waiver of up-to-date title plant requirement, 9.7 Notice **ARC 7115B** ..... 8/27/08  
 Military service member home ownership assistance program, ch 27 Filed **ARC 7114B** ..... 8/27/08

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

- Covered wages, death benefits and beneficiaries, QDROs, amendments to chs 6, 14, 16  
Filed **ARC 7112B** ..... 8/27/08

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- Claiming a prize, 11.1(5), 11.4 Filed **ARC 7070B** ..... 8/13/08  
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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Contested case proceedings—alternate board members, 1.1, 1.3, 25.18(1), 25.24(1) Filed **ARC 7080B** ..... 8/13/08  
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 Verification of physician licensure; fees for public records, 8.5(1), 8.6 Filed **ARC 7077B** ..... 8/13/08  
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 Resident physician licensure, 10.3(2)“d” Filed **ARC 7073B** ..... 8/13/08  
 Failure to comply with audits, 11.4(1), 23.1 Filed **ARC 7078B** ..... 8/13/08  
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**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Board of chiropractic, rescind chs 40, 46; amend 41.7, 41.11 to 41.13, 44.4 to 44.7, 45.5  
Filed **ARC 7053B** ..... 8/13/08  
 Board of chiropractic, 41.5, 44.3(2) Filed **ARC 7052B** ..... 8/13/08  
 Board of chiropractic, 43.1, 43.12, 45.2(1) Filed **ARC 7051B** ..... 8/13/08  
 Board of massage therapy, rescind chs 130, 135; amend 131.7, 131.11 to 131.13, 133.4 to 133.7, 134.6 Notice **ARC 7063B** ..... 8/13/08  
 Board of optometry, rescind chs 179, 184; amend chs 180 to 183 Notice **ARC 7113B** ..... 8/27/08  
 Board of podiatry, rescind chs 219, 221, 225; amend chs 220, 222 to 224 Notice **ARC 7081B** ..... 8/13/08  
 Board of respiratory care, rescind chs 260, 264; amend chs 261 to 263 Notice **ARC 7103B** ..... 8/27/08  
 Board of physician assistants, rescind chs 325, 330; amend 326.5, 326.12 to 326.14, 328.4 to 328.7, 329.5 Filed **ARC 7055B** ..... 8/13/08  
 Board of athletic training, rescind chs 350, 354; amend chs 351 to 353 Filed **ARC 7054B** ..... 8/13/08

**PUBLIC SAFETY DEPARTMENT[661]**

- Smoke detectors, 5.807 to 5.810, 210.1, 210.2 Filed **ARC 7108B** ..... 8/27/08  
 Flammable and combustible liquids, 221.3(1)“i” Filed **ARC 7062B** ..... 8/13/08  
 Certification of alarm system contractors and installers, ch 277 Filed **ARC 7111B** ..... 8/27/08

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INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- Horse racing; licensure; monitoring activities; progressive slot machines, amendments to chs 5, 6, 10 to 12 Notice **ARC 7060B** ..... 8/13/08

**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Continuing education attendance requirements, 16.7, 17.2(4) Notice **ARC 7087B** ..... 8/27/08  
 Approval standards for courses of instruction, 17.7(3) Notice **ARC 7089B** ..... 8/27/08  
 Operations of grant committee; grant applications and awards, chs 22, 23 Filed **ARC 7086B** ..... 8/27/08

**REGENTS BOARD[681]**

- University of Northern Iowa—application fee increase, 1.7 Filed **ARC 7116B** ..... 8/27/08

**SECRETARY OF STATE[721]**Absentee voting by UOCAVA voters, 21.1(14), 21.320 Filed **ARC 7056B** ..... 8/13/08**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]**Access to Iowa communications network—Iowa Hospital Association, 7.1, 7.4(5) Notice **ARC 7057B** ..... 8/13/08**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Wind energy tax credits, 15.18, 15.20 Filed **ARC 7091B** ..... 8/27/08**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**War orphans educational assistance fund, 9.3, 9.4, 9.5(1)"b" Notice **ARC 7083B** ..... 8/13/08**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2011.**

Senator Jeff Angelo  
P.O. Box 604  
Creston, Iowa 50801

Senator Michael Connolly  
2600 Renaissance Drive, #3  
Dubuque, Iowa 52001

Senator Thomas Courtney  
2200 Summer Street  
Burlington, Iowa 52601

Senator John P. Kibbie  
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**Administrative Rules Coordinator**  
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AGENCY	HEARING LOCATION	DATE AND TIME
<b>DENTAL BOARD[650]</b>		
Guidelines on sedation, amendments to ch 29 IAB 8/27/08 <b>ARC 7107B</b>	Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa	September 16, 2008 10 a.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Physical infrastructure assistance program (PIAP) eligibility, 23.7(1), 61.1(2), 61.3(1), 61.4(2), 61.5, 61.7(2), 174.3(5) IAB 8/13/08 <b>ARC 7069B</b>	Iowa Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 8, 2008 2:30 to 4:30 p.m.
Targeted jobs withholding tax credit program, 71.1 to 71.6, IAB 8/13/08 <b>ARC 7068B</b>	Iowa Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 10, 2008 2:30 to 4:30 p.m.
Information technology—targeted industries, occupational classification, 103.1 to 103.13 IAB 8/13/08 <b>ARC 7067B</b>	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 8, 2008 3 to 4 p.m.
Targeted industries student competition fund, 108.1 to 108.8 IAB 8/13/08 <b>ARC 7065B</b>	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 3, 2008 3:30 to 4:30 p.m.
Targeted industries career awareness fund, 109.1 to 109.9 IAB 8/13/08 <b>ARC 7066B</b>	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 3, 2008 3:30 to 4:30 p.m.
Renewable fuel infrastructure program, amendments to chs 311 to 314 IAB 8/13/08 <b>ARC 7074B</b>	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 3, 2008 2:30 to 4 p.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Quality faculty committee, 21.3, 21.31, 21.32, 24.3, 24.5 IAB 8/27/08 <b>ARC 7090B</b> (ICN NETWORK)	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 19, 2008 9 to 11 a.m.
	Room 410, Building D Northwest Iowa Community College 603 W. Park St. Sheldon, Iowa	September 19, 2008 9 to 11 a.m.
	Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	September 19, 2008 9 to 11 a.m.
	Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	September 19, 2008 9 to 11 a.m.
	Room 306, Clarinda Center Iowa Western Community College 923 E. Washington Clarinda, Iowa	September 19, 2008 9 to 11 a.m.



AGENCY	HEARING LOCATION	DATE AND TIME
<b>EDUCATION DEPARTMENT[281]</b> (Cont'd)		
	Room 107, Technical Center Southwestern Community College 1501 W. Townline Rd. Creston, Iowa	September 19, 2008 9 to 11 a.m.
	Videoconferencing & Training Center Indian Hills Community College 651 Indian Hills Dr. Ottumwa, Iowa	September 19, 2008 9 to 11 a.m.
	Room 101 Northeast Iowa Community College 700 Main St. Dubuque, Iowa	September 19, 2008 9 to 11 a.m.
	Western Iowa Tech. Community College 11 N. 35th St. Denison, Iowa	September 19, 2008 9 to 11 a.m.
<b>HISTORICAL DIVISION[223]</b>		
Emergency grant program for disaster relief, 50.2, 50.8 IAB 8/27/08 <b>ARC 7084B</b> (See also <b>ARC 7085B</b> herein)	Tone Board Room, Historical Bldg. 600 E. Locust St. Des Moines, Iowa	September 17, 2008 10 a.m.
<b>IOWA FINANCE AUTHORITY[265]</b>		
Waiver of up-to-date title plant requirement, 9.7 IAB 8/27/08 <b>ARC 7115B</b>	2015 Grand Ave. Des Moines, Iowa	September 16, 2008 1 p.m.
<b>MANAGEMENT DEPARTMENT[541]</b>		
DAS customer council, ch 12 IAB 7/30/08 <b>ARC 6996B</b>	Room G14 State Capitol Bldg. Des Moines, Iowa	September 5, 2008 10 a.m.
<b>MEDICINE BOARD[653]</b>		
Definition and supervision of an observer, 9.1, 9.2 IAB 8/13/08 <b>ARC 7048B</b>	Board Office, Suite C 400 SW 8th St. Des Moines, Iowa	September 2, 2008 3 p.m.
<b>NURSING BOARD[655]</b>		
Administration of anesthetic agents, 6.2(6), 6.4 IAB 7/30/08 <b>ARC 7009B</b>	Des Moines West Room, Holiday Inn 1050 6th Ave. Des Moines, Iowa	September 10, 2008 6 p.m.
<b>PROFESSIONAL LICENSURE DIVISION[645]</b>		
Board of massage therapy, rescind chs 130, 135; amend 131.7, 131.11 to 131.13, 133.4 to 133.7, 134.6 IAB 8/13/08 <b>ARC 7063B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 2, 2008 2 to 2:30 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
<b>PROFESSIONAL LICENSURE DIVISION[645] (Cont'd)</b>		
Board of optometry, rescind chs 179, 184; amend chs 180 to 183 IAB 8/27/08 <b>ARC 7113B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 16, 2008 8:30 to 9 a.m.
Board of podiatry, rescind chs 219, 221, 225; amend 220.8, 220.12 to 220.14, 222.5, 222.7, 224.5 IAB 8/13/08 <b>ARC 7081B</b>	Fifth Floor Board Room 526 Lucas State Office Bldg. Des Moines, Iowa	September 3, 2008 9 to 9:30 a.m.
Board of respiratory care, rescind chs 260, 264; amend chs 261 to 263 IAB 8/27/08 <b>ARC 7103B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 16, 2008 9 to 9:30 a.m.
<b>PUBLIC SAFETY DEPARTMENT[661]</b>		
Inventory of impounded vehicles under emergency conditions, 6.4(2) IAB 7/30/08 <b>ARC 6999B</b> (See also <b>ARC 6986B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 8:45 a.m.
Division of commercial investigation—identification, 11.2 IAB 7/30/08 <b>ARC 7000B</b> (See also <b>ARC 6987B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 8:30 a.m.
Bail enforcement; private investigative and security businesses—licensure, 121.2, 121.24 IAB 7/30/08 <b>ARC 6998B</b> (See also <b>ARC 6985B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9 a.m.
Evidentiary breath testing, 157,2121.2, 121.24 IAB 7/30/08 <b>ARC 7020B</b>	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 8:15 a.m.
Certification of automatic fire extinguishing system contractors, 275.5(4) IAB 7/30/08 <b>ARC 7005B</b> (See also <b>ARC 6984B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9:15 a.m.
State Building Code—factory-built structure, 322.11, ch 323 IAB 7/30/08 <b>ARC 7008B</b> (See also <b>ARC 7007B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9:30 a.m.
Manufactured housing—relocation due to disaster emergency, 372.8(4) IAB 7/30/08 <b>ARC 7006B</b> (See also <b>ARC 6988B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9:30 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
<b>RACING AND GAMING COMMISSION[491]</b>		
Horse racing; licensure; monitoring activities; progressive slot machines, amendments to chs 5, 6, 10 to 12 IAB 8/13/08 <b>ARC 7060B</b>	Commission Office, Suite B 717 E. Court Ave. Des Moines, Iowa	September 2, 2008 9:30 a.m.
<b>REAL ESTATE COMMISSION[193E]</b>		
Continuing education attendance requirements, 16.7, 17.2(4) IAB 8/27/08 <b>ARC 7087B</b>	Second Floor Conference Room 1920 SE Hulsizer Ankeny, Iowa	September 16, 2008 10 a.m.
Approval standards for courses of instruction, 17.7(3) IAB 8/27/08 <b>ARC 7089B</b>	Second Floor Conference Room 1920 SE Hulsizer Ankeny, Iowa	September 16, 2008 10 a.m.
<b>TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]</b>		
Access to Iowa communications network—Iowa hospital association, 7.1, 7.4(5) IAB 8/13/08 <b>ARC 7057B</b>	ICN Grand Conference Room Grimes State Office Bldg. Des Moines, Iowa	September 4, 2008 1 p.m.
<b>VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]</b>		
War orphans educational assistance fund, 9.3, 9.4, 9.5(1) IAB 8/13/08 <b>ARC 7083B</b>	Building A6A, Camp Dodge 7105 NW 70th Ave. Johnston, Iowa	September 2, 2008 4 to 4:30 p.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Agricultural Development Authority[25]  
    Soil Conservation Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CITIZENS’ AIDE[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Savings and Loan Division[197]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ELDER AFFAIRS DEPARTMENT[321]  
EMPOWERMENT BOARD, IOWA[349]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
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Community Action Agencies Division[427]  
Criminal and Juvenile Justice Planning Division[428]  
Deaf Services Division[429]  
Persons With Disabilities Division[431]  
Latino Affairs Division[433]  
Status of African-Americans, Division on the[434]  
Status of Women Division[435]  
Status of Iowans of Asian and Pacific Islander Heritage[436]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
Employment Appeal Board[486]  
Foster Care Review Board[489]  
Racing and Gaming Commission[491]  
State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
Appeal Board, State[543]  
City Finance Committee[545]  
County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
Energy and Geological Resources Division[565]  
Environmental Protection Commission[567]  
Natural Resource Commission[571]  
Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
Homeland Security and Emergency Management Division[605]  
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PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
Professional Licensure Division[645]  
Dental Board[650]  
Medicine Board[653]  
Nursing Board[655]  
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PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
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VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
Labor Services Division[875]  
Workers' Compensation Division[876]  
Workforce Development Board and Workforce Development Center Administration Division[877]

## ARC 7088B

## ADMINISTRATIVE SERVICES DEPARTMENT[11]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 71, "Combined Charitable Campaign," Iowa Administrative Code.

The proposed amendments delete requirements that are contrary to the provisions of the Iowa civil rights Act (Iowa Code chapter 216) and allow interested charities equal opportunities to participate.

Any interested party may make written comments on the proposed amendments on or before September 16, 2008. Such written comments should be directed to Ed Holland or Patricia Lantz, Hoover State Office Building, 1305 E. Walnut, Des Moines, Iowa 50319, or may be sent by fax to (515)281-6401 or by E-mail to [Ed.Holland@iowa.gov](mailto:Ed.Holland@iowa.gov) or [Patricia.Lantz@iowa.gov](mailto:Patricia.Lantz@iowa.gov).

These amendments are intended to implement Iowa Code section 8A.432.

The following amendments are proposed.

ITEM 1. Amend paragraph 71.6(1)"f" as follows:

~~f. Be providing or supporting services or in the state of Iowa that are readily accessible to residents of the state of Iowa, except that agencies or federations of agencies engaged in any way in sectarian activities, including activities aimed at promoting the adoption or defeat of any one or more religious viewpoints, shall not be eligible to participate.~~

ITEM 2. Amend paragraph 71.6(1)"h" as follows:

~~h. Operate without discrimination—religious, racial, or otherwise, both in employment and in employment, in accordance with Iowa Code chapter 216, and in the delivery of services, as well as and the distribution of funds.~~

## ARC 7104B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 163.1, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

The proposed amendments revise the standards for participation in the voluntary Chronic Wasting Disease program. The proposed amendments include moose in the program and update references. Animals in the program will no longer be identified with only a tattoo; animals will have to have two forms of official cervid identification.

Any interested person may make written suggestions or comments on the proposed amendments prior to 4:30 p.m. on September 17, 2008. Written material should be directed to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Moines, Iowa 50319. Comments may also be submitted by letter, by fax to (515)281-6236, or by E-mail to [Margaret.Thomson@idals.state.ia.us](mailto:Margaret.Thomson@idals.state.ia.us).

These amendments are intended to implement Iowa Code chapter 163.

The following amendments are proposed.

ITEM 1. Amend rule **21—64.104(163)**, definitions of “Accredited veterinarian,” “CWD susceptible Cervidae” and “Official cervid identification,” as follows:

“*Accredited veterinarian*” means a veterinarian approved by the deputy administrator of veterinary services, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1, of the Code of Federal Regulations, revised as of ~~January 1, 2000~~ July 21, 2006, to perform functions required by cooperative state/federal animal disease control and eradication programs.

“*CWD susceptible Cervidae*” means whitetail deer, blacktail deer, mule deer, red deer, elk, moose and related species and hybrids of these species.

“*Official cervid identification*” means one of the following:

1. A USDA-approved identification ear tag that conforms to the alphanumeric national uniform ear tagging system as defined in 9 CFR Part 71.1, Chapter 1, revised as of ~~January 1, 2000~~ July 21, 2006.

2. A plastic or other material tag that includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.

3. A legible tattoo which includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.

4. A plastic or other material tag which provides unique animal identification and is issued and approved by the North American Elk Breeders Association.

5. A plastic or other material tag which provides unique animal identification and is issued and approved by the North American Deer Farmers Association.

ITEM 2. Amend subrule 64.106(3) as follows:

**64.106(3) Identification.** All cervid animals must be identified with two forms of official identification. Effective June 1, 2003, Cervid animals not identified with a tattoo must be identified with two forms have a second visual form of official identification.

**ARC 7096B**

## COLLEGE STUDENT AID COMMISSION[283]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby proposes to adopt new Chapter 16, “Washington, D.C., Internship Grant,” Iowa Administrative Code.

The purpose of these rules is to implement the Washington, D.C., Internship Grant as enacted by 2008 Iowa Acts, House File 2679.

These rules were also Adopted and Filed Emergency, effective August 1, 2008, and are published herein as **ARC 7095B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Interested persons may submit comments orally or in writing by 4:30 p.m. on September 16, 2008, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)725-3400.

These rules are intended to implement Iowa Code chapter 261 and 2008 Iowa Acts, House File 2679.

**ARC 7098B****COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby proposes to adopt new Chapter 17, "Barber and Cosmetology Arts and Sciences Tuition Grant Program," Iowa Administrative Code.

The purpose of these rules is to implement the Barber and Cosmetology Arts and Sciences Tuition Grant Program as enacted by 2008 Iowa Acts, House File 2679, section 32.

These rules were also Adopted and Filed Emergency, effective August 1, 2008, and are published herein as **ARC 7097B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Interested persons may submit comments orally or in writing by 4:30 p.m. on September 16, 2008, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)725-3400.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 32.

**ARC 7102B****COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby proposes to adopt new Chapter 33, "Chiropractic Loan Forgiveness Program," Iowa Administrative Code.

The purpose of these proposed rules is to implement the Chiropractic Loan Forgiveness Program as enacted by 2008 Iowa Acts, House File 2679, section 34.

These rules were also Adopted and Filed Emergency, effective August 1, 2008, and are published herein as **ARC 7100B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Interested persons may submit comments orally or in writing by 4:30 p.m. on September 16, 2008, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)725-3400.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 34.



## ARC 7107B

**DENTAL BOARD[650]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby gives Notice of Intended Action to amend Chapter 29, "Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia," Iowa Administrative Code.

The amendments update board rules to reflect recent revisions to the American Dental Association's guidelines on sedation. The amendments also require that a dentist utilizing moderate sedation on pediatric (ages 12 and under) or American Society of Anesthesiologists (ASA) category 3 or 4 patients must have completed additional training approved by the Board, unless the dentist has been providing these services for five years preceding July 1, 2008, without adverse occurrences. This requirement is consistent with the ADA guidelines that require dentists to have completed additional training in pediatric and medically compromised patients in order to provide sedation to these patients.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed amendments on or before September 16, 2008. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to [Jennifer.Hart@iowa.gov](mailto:Jennifer.Hart@iowa.gov).

Also, there will be a public hearing on September 16, 2008, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the July 16, 2008, regular meeting of the Iowa Dental Board.

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

The following amendments are proposed.

ITEM 1. Amend **650—Chapter 29**, title, as follows:

~~DEEP SEDATION/GENERAL ANESTHESIA, CONSCIOUS SEDATION  
AND NITROUS OXIDE INHALATION ANALGESIA~~

ITEM 2. Amend rule 650—29.1(153), introductory paragraph, as follows:

**650—29.1(153) Definitions.** For the purpose of these rules relative to the administration of deep sedation/general anesthesia, moderate or conscious sedation, and nitrous oxide inhalation analgesia by licensed dentists the following definitions shall apply:

ITEM 3. Amend rule **650—29.1(153)**, definitions of "Antianxiety premedication" and "Conscious sedation," as follows:

*"Antianxiety premedication"* is the prescription/administration of pharmacologic substances for the relief of anxiety and apprehension which does not result in a depressed level of consciousness. The term "minimal sedation" also refers to antianxiety premedication.

*"Conscious sedation"* is a depressed level of consciousness, produced by the administration of pharmacologic substances, that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. After July 1, 2008, the term "moderate sedation" replaced the term "conscious sedation."

## DENTAL BOARD[650](cont'd)

ITEM 4. Adopt the following **new** definitions in rule **650—29.1(153)**:

“ASA” refers to the American Society of Anesthesiologists patient physical status classification system. Category 1 means normal healthy patients, and category 2 means patients with mild systemic disease with no functional limitations. Category 3 means patients with moderate systemic disease with functional limitations, and category 4 means patients with severe systemic disease that is a constant threat to life.

“*Minimal sedation*” means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient’s ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected.

“*Moderate sedation*” means a drug-induced depression of consciousness, either by enteral or parenteral means, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Prior to July 1, 2008, moderate sedation was referred to as conscious sedation.

ITEM 5. Strike the word “conscious” wherever it appears in rules **650—29.2(153)** to **650—29.7(153)** and rules **650—29.9(153)** to **650—29.12(153)** and insert the word “moderate” in lieu thereof.

ITEM 6. Amend subrule 29.4(1) as follows:

**29.4(1)** A permit may be issued to a licensed dentist to use moderate sedation ~~on an outpatient basis~~ for dental patients provided the dentist meets the following requirements:

a. Has successfully completed a training program approved by the board that meets Parts I and III of the American Dental Association Council on Dental Education Guidelines and that consists of a minimum of 60 hours of instruction plus management of at least 20 patients; and

b. and c. No change.

ITEM 7. Adopt the following **new** subrule 29.4(9):

**29.4(9)** A dentist utilizing moderate sedation on pediatric (ages 12 and under) or ASA category 3 or 4 patients must have completed additional training approved by the board, such as an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric and ASA category 3 or 4 patients. A dentist who does not meet the requirements of this subrule is prohibited from utilizing moderate sedation on pediatric or ASA category 3 or 4 patients, unless the dentist has been utilizing moderate sedation for these patients for five years preceding July 1, 2008, without adverse occurrences.

ITEM 8. Amend subrule 29.5(8) as follows:

**29.5(8)** Permit holders shall follow the American Dental Association’s guidelines for dentists for the use of ~~conscious sedation, deep~~ sedation and general anesthesia ~~for dentists~~.

ITEM 9. Adopt the following **new** subrule 29.5(9):

**29.5(9)** A dentist utilizing moderate sedation on pediatric (ages 12 and under) or ASA category 3 or 4 patients must have completed additional training approved by the board, such as an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric and ASA category 3 or 4 patients. A dentist who does not meet the requirements of this subrule is prohibited from utilizing moderate sedation on pediatric or ASA category 3 or 4 patients, unless the dentist has been utilizing moderate sedation for these patients for five years preceding July 1, 2008, without adverse occurrences.

ITEM 10. Amend rule **650—29.9(153)**, catchwords, as follows:

**650—29.9(153) Reporting of adverse occurrences related to ~~deep sedation/general anesthesia, conscious~~ sedation, nitrous oxide inhalation analgesia, and antianxiety premedication.**

ITEM 11. Amend subrule 29.9(1), introductory paragraph, as follows:

**29.9(1) Reporting.** All licensed dentists in the practice of dentistry in this state must submit a report within a period of 30 days to the board of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication or minimal sedation, nitrous oxide inhalation analgesia, ~~conscious sedation~~ or

DENTAL BOARD[650](cont'd)

~~deep sedation/general anesthesia-related thereto~~ sedation. The report shall include responses to at least the following:

**ARC 7093B****EDUCATION DEPARTMENT[281]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 17, "Open Enrollment," Iowa Administrative Code.

In accordance with 2008 Iowa Acts, House File 2700, section 108, the Board proposes to amend rule 281—17.10(282) to change the funding formula for students enrolled in a home school assistance program from .6 per pupil to .3 per pupil. In addition, subrule 17.10(6) is amended to clarify a misunderstanding about the phrase "number of quarters." School districts may not lawfully pay for services not rendered; all tuition of any type is prorated to the day of service. The reference to "quarterly" ("quarterly payments shall be made to the receiving district") in Iowa Code section 282.18, subsection 9, refers to when payments are made from one district to another; it does not refer to the amount of such payments or how to calculate them. Striking the text in subrule 17.10(6) that refers to the number of quarters allows the Department to give clearer guidance on this matter to districts. Finally, subrule 17.10(2) is amended to clarify which district shall count home schooled pupils who are dually enrolled.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment on or before September 16, 2008, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail [carol.greta@iowa.gov](mailto:carol.greta@iowa.gov); or fax (515)281-4122.

This amendment is intended to implement 2008 Iowa Acts, House File 2700, section 108.

The following amendment is proposed.

Amend rule 281—17.10(282) as follows:

**281—17.10(282) Method of finance.** Open enrollment options shall be made available for pupils at no instructional cost to their parents/guardians. Open enrollment pupils shall be considered enrolled resident pupils in the resident district and shall be included in the certified enrollment count of that district for the purposes of generating school foundation aid.

**17.10(1)** No change.

**17.10(2) Dual enrolled pupils.** Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b," for pupils who receive competent private instruction and are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to .1 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4. However, a pupil dual enrolled in grades nine through twelve shall be counted by the receiving district in the same manner as a shared-time pupil under Iowa Code section 257.6(1) "c."

**17.10(3) Home school assistance program pupils.** Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b," for pupils who receive competent private instruction and are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal ~~to .6~~ to .3 times the state cost per pupil under Iowa Code chapter 257 for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

**17.10(4) and 17.10(5)** No change.

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**17.10(6) *Partial-year situations.*** In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at midyear, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of cost per pupil will be prorated ~~based on the number of quarters of school enrollment.~~

**17.10(7) and 17.10(8)** No change.

## ARC 7090B

### EDUCATION DEPARTMENT[281]

#### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 21, "Community Colleges," and Chapter 24, "Community College Accreditation," Iowa Administrative Code.

Items 1 to 5 and 10 to 12 address legislation in 2007 Iowa Acts, chapter 214, sections 21 to 23, and 2008 Iowa Acts, House File 2679, sections 27 to 29. The subject matter addressed deals with the Quality Faculty Committee established in Iowa Code section 260C.36, and accreditation standards regarding community college faculty. Until the Department completes the transfer of all agency rules regarding accreditation of community colleges to Chapter 24, certain rules appear in both Chapters 21 and 24.

Regarding Item 6, 2008 Iowa Acts, House File 2679, section 26, changed the formula by which funds allocated to the Department are distributed to all 15 community colleges to supplement faculty salaries. The former distribution formula was based on the proportional share of each community college's total salary expenditures in the instructional and instructional part-time categories in the education functions of liberal arts and sciences and vocational-technical to the total salary expenditures for all community colleges in such functions (pursuant to 2007 Iowa Acts, chapter 215, section 31). The new legislation states that the distribution formula shall be based on the number of full-time equivalent instructors employed by each community college in proportion to the total number of such instructors employed by all Iowa community colleges. Finally, the new legislation directed the state Board of Education to define by rule "eligible full-time equivalent instructor." The definition is the total of full-time faculty plus the fractions of part-time faculty who are covered by a collective bargaining agreement.

Items 7 to 9 incorporate the expansion in 2008 Iowa Acts, House File 2651, section 16, of the locations at which the course for drinking drivers may be offered to include the state correctional facilities listed in Iowa Code section 904.102 (presently those are the correctional institution for women, the Anamosa and Fort Madison penitentiaries, the Oakdale medical and classification center, the correctional facilities at Rockwell City, Mount Pleasant, Clarinda, Newton, and Fort Dodge). The legislation also mandates that the Department of Education consult with the Departments of Public Health and Corrections for approval of such courses.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 19, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Roger Utman, Chief, Bureau of Community Colleges and Career and Technical Education, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3542; E-mail [roger.utman@iowa.gov](mailto:roger.utman@iowa.gov); or fax (515)281-6544.

A public hearing will be held on September 19, 2008, from 9 to 11 a.m., originating in the ICN Room on the Second Floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend

## EDUCATION DEPARTMENT[281](cont'd)

the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295. The remote ICN sites are as follows:

Northwest Iowa Community College  
Building D, Room 410  
603 West Park Street  
Sheldon

North Iowa Area Community College  
Activity Center, Room 106  
500 College Drive  
Mason City

Kirkwood Community College  
Room Location: Linn Hall 203 B  
6301 Kirkwood Boulevard SW  
Cedar Rapids

Iowa Western Community College  
Clarinda Center, Room 306  
923 East Washington  
Clarinda

Southwestern Community College  
Technical Center, Room 107  
1501 West Townline Road  
Creston

Indian Hills Community College  
Videoconferencing & Training Center  
651 Indian Hills Drive  
Ottumwa

Northeast Iowa Community College  
Room 101  
700 Main Street  
Dubuque

Western Iowa Tech Community College  
11 North 35th Street  
Denison

These amendments are intended to implement 2008 Iowa Acts, House File 2679, section 26; 2008 Iowa Acts, House File 2651, section 16; and Iowa Code sections 260C.36 and 260C.48(1) as amended by 2007 Iowa Acts, chapter 214, sections 21 to 23 (Senate File 588), and by 2008 Iowa Acts, House File 2679, sections 27 to 29.

The following amendments are proposed.

ITEM 1. Amend subrule 21.3(1) as follows:

**21.3(1) Minimum standards.** Community college-employed instructors ~~teaching full-time~~ who are under contract for at least half-time or more and teach in career and technical education ~~and~~ or arts and sciences

## EDUCATION DEPARTMENT[281](cont'd)

shall meet minimum standards. By July 1, 2011, all instructors who teach in career and technical education or arts and sciences shall meet minimum standards. In accordance with 2002 Iowa Acts, chapter 1047, section 8 Iowa Code Supplement section 260C.48(1) as amended by 2008 Iowa Acts, House File 2679, standards shall at a minimum require that full-time community college instructors who are under contract for at least half-time or more, and by July 1, 2011, all instructors, meet the following requirements:

*a. and b. No change.*

*c. ~~Full-time developmental~~ Developmental education and adult education instructors employed half-time or more may or may not meet minimum requirements depending on their teaching assignments and the relevancy of standards to the courses they are teaching and the transferability of such courses. If instructors are teaching credit courses reported in arts and sciences or career and technical education, it is recommended that these instructors meet minimum standards set forth in subrule 21.3(1), paragraph "a" or "b." By July 1, 2011, all instructors teaching credit courses designed to transfer or to complete a degree shall meet minimum standards.*

ITEM 2. Amend subrule **21.3(2)**, definition of "Instructors meeting minimum requirements," as follows:

*"Instructors meeting minimum requirements." A community college instructor meeting the minimum requirements of ~~2002 Iowa Acts, chapter 1047, section 8 Iowa Code Supplement section 260C.48(1) as amended by 2008 Iowa Acts, House File 2679, is a full-time~~ an instructor under contract for at least half-time or more teaching college credit courses. Beginning July 1, 2011, a community college instructor meeting the minimum requirements is an instructor teaching college credit courses. Credit courses ~~should~~ shall meet requirements as specified in rule 281—21.2(260C), and meet program requirements for college parallel, career and technical education, and career-option programs as specified in rule 281—21.4(260C) and Iowa Code chapter 260C.*

ITEM 3. Amend subrule 21.3(3) as follows:

**21.3(3) Accreditation status.** ~~The results of the department of education's on-site visits required by Iowa Code subsections 260C.36(1) "h" and 260C.36(3) will be reported to each community college with information to be used in accreditation visits starting in year 2006. Beginning July 1, 2006, the~~ The state accreditation process shall incorporate the standards developed pursuant to ~~2002 Iowa Acts, chapter 1047, section 9 Iowa Code Supplement section 260C.36 as amended by 2008 Iowa Acts, House File 2679.~~

ITEM 4. Amend subrule 21.3(4) as follows:

**21.3(4) Faculty load.**

*a. College parallel.* The full-time teaching load of an instructor in college parallel programs shall not exceed a maximum of 16 credit hours per school term or the equivalent. An instructor may also have a teaching assignment outside of the normal school hours; provided the instructor consents to this additional assignment and the total workload does not exceed the equivalent of 18 credit hours ~~per school term~~ within a traditional semester.

*b. Career and technical education.* The full-time teaching load of an instructor in career and technical education programs shall not exceed ~~six~~ 6 hours per day, and an aggregate of 30 hours per week or the equivalent. An instructor may also teach the equivalent of an additional ~~three~~ 3 credit hours provided the instructor consents to this additional assignment. When the teaching assignment includes classroom subjects (nonlaboratory), consideration shall be given to establishing the teaching load more in conformity with that of paragraph "a" of this subrule.

ITEM 5. Amend subrule 21.3(6) as follows:

**21.3(6) Quality faculty plan.** ~~By October 1, 2002, each~~ The community college must establish a quality faculty committee consisting of instructors and administrators to develop and maintain a plan for hiring and developing quality faculty. The committee must have equal representatives of arts and ~~science~~ sciences and career and technical faculty with no more than a simple majority of members of the same gender. Faculty must be appointed by the certified employee organization representing faculty, if any, and administrators must be appointed by the college's administration. If no faculty-certified employee organization representing faculty exists, the faculty will be appointed by administration pursuant to Iowa Code ~~subsection~~ section 260C.48(4).

## EDUCATION DEPARTMENT[281](cont'd)

The committee must submit the plan to the board of directors for consideration, approval and submittal to the department of education.

a. For purposes of this subrule, the following definitions shall apply.

(1) "Counselor" means those who are classified as counselors as defined in the college's collective bargaining agreement or written policy.

(2) "Media specialist" means those who are classified as media specialists as defined in the college's collective bargaining agreement or written policy.

~~a. b.~~ The institutional quality faculty plan is applicable to all community college-employed faculty teaching college credit courses, counselors, and media specialists. The plan requirements may be differentiated for each type of employee. The plan shall include, at a minimum, each of the following components:

~~(1) An implementation schedule for the plan. The committee shall submit the plan to the board of directors, which shall consider the plan and, once approved, submit the plan to the department and implement the plan no later than July 1, 2003. It is recommended that an implementation schedule include a needs assessment and timelines for evaluation, revision, completion and approval dates. Plan maintenance. The quality faculty committee shall submit proposed plan modifications to the board of directors for consideration and approval. It is recommended that the plan be updated at least annually.~~

(2) A determination of the faculty and staff to be included in the plan including, but not limited to, all instructors teaching college credit courses, counselors, and media specialists.

~~(2)~~ (3) Orientation for new faculty. It is recommended that new faculty orientation be initiated within six months from the hiring date. It is recommended that the orientation of new faculty be flexible to meet current and future needs and provide options other than structured college courses for faculty to improve teaching strategies, curriculum development and evaluation strategies. It is recommended that the college consider developing a faculty mentoring program.

~~(3)~~ (4) Continuing professional development for faculty. It is recommended that the plan clearly specify required components including time frame for continuing professional development for faculty. It is recommended that the plan include the number of hours, courses, workshops, professional and academic conferences or other experiences such as industry internships, cooperatives and exchange programs that faculty may use for continuing professional development. It is recommended that the plan include prescribed and elective topics such as discipline-specific content and educational trends and research. Examples of topics that may be considered include dealing with the complexities of learners, skills in teaching adults, curriculum development, assessment, evaluation, enhancing students' retention and success, reaching nontraditional and minority students, improving skills in implementing technology and applied learning, leadership development, and issues unique to a particular college. The plan may be inclusive for all college staff, including adjunct and part-time faculty. The institutional quality faculty plan shall include professional development components for all instructional staff, counselors, and media specialists, and may include reciprocity features that facilitate movement from one college to another.

~~(4)~~ (5) Procedures for accurate record keeping and documentation for plan monitoring. It is recommended that the plan identify the college officials or administrators responsible for the administration, record keeping and ongoing evaluation and monitoring of the plan. It is recommended the plan monitoring, evidence collected, and records maintained showing implementation of the plan be comprehensive in scope. It is recommended that the plan provide for the documentation that each faculty member appropriately possesses, attains or progresses toward attaining minimum competencies.

~~(5)~~ (6) Consortium arrangements where appropriate, cost-effective and mutually beneficial. It is recommended that the plan provide an outline of existing and potential consortium arrangements including a description of the benefits, cost-effectiveness, and method of evaluating consortium services.

~~(6)~~ (7) Specific activities that ensure that faculty attain and demonstrate instructional competencies and knowledge in their subject or technical areas. It is recommended that the plan identify faculty minimum competencies and explain the method or methods of determining and assessing competencies. It is recommended that the plan contain procedures for reporting faculty progress. It is recommended that faculty be notified at least once a year of their progress in attaining competencies. It is recommended that the plan include policies and provisions for length of provisional status for faculty who do not meet the

## EDUCATION DEPARTMENT[281](cont'd)

minimum standards in Iowa Code section 260C.48, ~~as amended by 2002 Iowa Acts, House File 2394~~. It is recommended that provisional status of individual faculty members not exceed five years.

~~(7)~~ (8) Procedures for collection and maintenance of records demonstrating that each faculty member has attained or documented progress toward attaining minimum competencies. It is recommended that the plan specify data collection procedures that demonstrate how each full-time faculty member has attained or has documented progress toward attaining minimum competencies. It is recommended that the plan incorporate the current department of education management information system data submission requirements by which each college submits complete human resources data files electronically as a part of the college's year-end reporting.

~~(8)~~ (9) Compliance with the faculty accreditation standards of the North Central Association of Colleges and Schools and with faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. It is recommended that the plan provide for the uniform reports with substantiating data currently required for North Central Association of Colleges and Schools accreditation.

~~b. — Between July 1, 2003, and June 30, 2006, the department of education shall review the plan and conduct on-site visits to ensure each community college's compliance and progress in implementing a quality faculty plan. At a minimum, the department shall visit five community colleges each year until the department has conducted on-site visits at 15 community colleges. The colleges will be given at least a 30-day notice of an on-site visit with a written explanation of materials that will be requested prior to and during the visit. The colleges shall provide additional information deemed necessary by the department. The department shall review the following:~~

c. The department of education shall notify the community college when the department requires that a modified quality faculty plan be submitted. The department shall review the plan during the state accreditation on-site visits to ensure each community college's compliance and progress in implementing a quality faculty plan as approved by the local board of directors. The department shall review the following:

(1) Documents submitted by the college that demonstrate that the plan includes each component required by paragraph 21.3(6) "a."

(2) Documentation submitted by the college that the board of directors approved the plan.

(3) Documentation submitted by the college that the college is implementing the approved plan, including, but not limited to, ~~evidence that the college is meeting the implementation schedule and time frames outlined in the plan;~~ evidence of plan monitoring, evaluation and updating; evidence that the faculty has attained, or is progressing toward attaining, minimum competencies and standards contained in Iowa Code section 260C.48 as amended by ~~2002 Iowa Acts, House File 2394~~ 2008 Iowa Acts, House File 2679, and 2007 Iowa Acts, Senate File 588; evidence that faculty members have been notified of their progress toward attaining minimum competencies and standards; and evidence that the college meets the minimum accreditation requirements for faculty required by the North Central Association of Colleges and Schools.

(4) Documentation that the college administration encourages the continued development of faculty potential as defined in ~~2002 Iowa Acts, House File 2394, section 5~~ Iowa Code Supplement section 260C.36 as amended by 2008 Iowa Acts, House File 2679.

(5) Documentation of the human resources report submitted by the college through the department's community college management information system.

~~Following the on-site visit to each community college, the department shall submit a report summarizing the department's findings to the community college. This report will indicate the college's compliance and progress in implementing the faculty plan and include any suggested improvements and recommendations. All colleges will have received on-site visits and reports summarizing such visits by July 1, 2006.~~

ITEM 6. Amend subrule 21.3(7) as follows:

**21.3(7) Faculty salary allocation plan.** Pursuant to the appropriation of funds from the state general fund to the department for the purpose of supplementing community college faculty salaries, the department follows the formula herein when distributing such funds to community colleges.

a. For purposes of this subrule, the following definitions apply.



## EDUCATION DEPARTMENT[281](cont'd)

(1) “Full-time faculty” means those nonadministrative instructors, counselors, and librarians who are classified as full-time employees as defined in the college’s collective bargaining agreement or written policy.

(2) “Part-time faculty” means those nonadministrative instructors, counselors, and librarians who are employed less than full-time as defined in the college’s collective bargaining agreement ~~or written policy~~ and who are covered by the college’s collective bargaining agreement. For purposes of the definition of “eligible full-time equivalent instructor,” each part-time faculty person shall be counted as a fraction that accurately reflects the person’s percentage of employment by the college when compared to a full-time faculty person.

(3) “Temporary/seasonal faculty” means those nonadministrative instructors, counselors, and librarians who are employed, full-time or part-time, by the college for short periods of time for specific purposes.

(4) “Adjunct faculty” means those nonadministrative instructors, counselors, and librarians who are employed without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

(5) “Eligible full-time equivalent instructor” means the total of full-time faculty and part-time faculty where each full-time faculty counts as one, and each part-time faculty counts as a fraction that accurately reflects the person’s percentage of employment by the college when compared to a full-time faculty person.

b. ~~The appropriation shall be distributed to the community colleges based on their proportional share of salary expenditures recorded in the instructional and instructional part-time categories and incurred in the liberal arts and sciences and vocational-technical functions. Salary expenditures for staff classified by the college as temporary/seasonal or as adjunct shall not be included in the eligible expenditures when calculating the distribution eligible full-time equivalent instructors.~~

c. to e. No change.

ITEM 7. Amend rule 281—21.31(321J) as follows:

**281—21.31(321J) Course.** A course provided according to this chapter shall be offered on a regular basis at each community college or by a substance abuse treatment program licensed under Iowa Code chapter 125, and may be offered at a state correctional facility listed in Iowa Code section 904.102. However, a community college shall not be required to offer the course if a substance abuse treatment program licensed under Iowa Code chapter 125 offers the course within the merged area served by the community college.

Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17, subsection 2. However, any person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

Any instructional course shall be approved by the department of education in consultation with the community colleges, ~~and substance abuse treatment programs licensed under Iowa Code chapter 125, the Iowa department of public health, and the Iowa department of corrections.~~ Each course of instruction shall establish the following:

1. to 5. No change.

ITEM 8. Amend rule 281—21.32(321J) as follows:

**281—21.32(321J) Tuition fee established.**

1. Each person enrolled in an instructional course for drinking drivers shall pay to the community college, ~~or to~~ a substance abuse treatment program licensed under Iowa Code chapter 125, or a state correctional facility a tuition fee of \$85 for the approved 12-hour course, plus a reasonable book fee or \$185 for the court-ordered approved 28-hour weekend course, plus a reasonable book fee. For the court-ordered approved 28-hour weekend course, the community college or the substance abuse treatment program licensed under Iowa Code chapter 125 shall set a reasonable fee for lodging, meals, and security.

2. A person shall not be denied enrollment in a course by reason of a person’s indigency. For court-ordered placement, the court shall determine a person’s indigency. In all other instances, the community college, ~~or the~~ substance abuse treatment program licensed under Iowa Code chapter 125, or state correctional facility shall determine indigence upon application.

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 9. Amend **281—Chapter 21**, Division III, implementation sentence, as follows:

The rules in this division are intended to implement Iowa Code section 321J.22 as amended by ~~2003 Iowa Acts, chapter 180, section 60~~ 2008 Iowa Acts, House File 2651, section 16.

ITEM 10. Amend rule **281—24.3(260C)**, definition of “Instructors meeting minimum requirements,” as follows:

*“Instructors meeting minimum requirements.”* A community college instructor meeting the minimum requirements of Iowa Code Supplement section ~~260C.48, subsection 1,~~ 260C.48(1) as amended by 2008 Iowa Acts, House File 2679, ~~is a full-time instructor or~~ an instructor under contract for at least half-time or more teaching college credit courses. Beginning July 1, 2011, a community college instructor meeting the minimum requirements is an instructor teaching college credit courses. Credit courses shall meet requirements as specified in rule 281—21.2(260C), and meet program requirements for college parallel, career and technical education, and career-option programs as specified in rule 281—21.4(260C) and Iowa Code chapter 260C.

ITEM 11. Amend rule 281—24.5(260C) as follows:

**281—24.5(260C) Accreditation components and criteria—additional state standards.** To be granted accreditation by the state board of education, an Iowa community college must also meet ~~four~~ five additional standards pertaining to minimum standards for faculty; faculty load; special needs; ~~and~~ vocational education evaluation; and quality faculty plan.

**24.5(1) Faculty.** ~~Community college-employed instructors teaching full-time in career and technical education and arts and sciences, in accordance with Iowa Code section 260C.48, subsection 1, shall meet, at a minimum, the following requirements:~~ Community college-employed instructors who are under contract for at least half-time or more, and by July 1, 2011, all instructors who teach in career and technical education or arts and sciences shall meet minimum standards. In accordance with Iowa Code Supplement section 260C.48(1) as amended by 2008 Iowa Acts, House File 2679, standards shall at a minimum require that community college instructors who are under contract for at least half-time or more, and by July 1, 2011, all instructors meet the following requirements:

a. and b. No change.

c. ~~Full-time developmental~~ Developmental education and adult education instructors employed half-time or more may or may not meet minimum requirements depending on their teaching assignments and the relevancy of standards to the courses they are teaching and the transferability of such courses. If instructors are teaching credit courses reported in arts and sciences or career and technical education, it is recommended that these instructors meet minimum standards set forth in 281—subrule 21.3(1), paragraph “a” or “b.” By July 1, 2011, all instructors teaching credit courses shall meet minimum standards.

**24.5(2) Faculty load.**

a. No change.

b. *Career and technical education.* The full-time teaching load of an instructor in career and technical education programs shall not exceed 6 hours per day, and an aggregate of 30 hours per week or the equivalent. An instructor may also teach the equivalent of an additional 3 credit hours, provided the instructor consents to this additional assignment. When the teaching assignment includes classroom subjects (nonlaboratory), consideration shall be given to establishing the teaching load more in conformity with that of paragraph 24.5(2)“a.”

**24.5(3)** No change.

**24.5(4) ~~Vocational~~ Career and technical education evaluation.** The community college ~~vocational career and technical~~ program review and evaluation system must ensure that the programs:

a. to g. No change.

ITEM 12. Adopt the following **new** subrule 24.5(5):

**24.5(5) Quality faculty plan.** The community college shall establish a quality faculty committee consisting of instructors and administrators to develop and maintain a plan for hiring and developing quality faculty. The committee shall have equal representatives of arts and sciences and career and technical faculty with no more than a simple majority of members of the same gender. Faculty shall be appointed by the certified

## EDUCATION DEPARTMENT[281](cont'd)

employee organization representing faculty, if any, and administrators shall be appointed by the college's administration. If no faculty-certified employee organization representing faculty exists, the faculty shall be appointed by administration pursuant to Iowa Code section 260C.48(4). The committee shall submit the plan to the board of directors for consideration, approval and submittal to the department of education.

a. For purposes of this subrule, the following definitions shall apply.

(1) "Counselor" means those who are classified as counselors as defined in the college's collective bargaining agreement or written policy.

(2) "Media specialist" means those who are classified as media specialists as defined in the college's collective bargaining agreement or written policy.

b. The institutional quality faculty plan is applicable to all community college-employed faculty teaching college credit courses, counselors, and media specialists. The plan requirements may be differentiated for each type of employee. The plan shall include, at a minimum, each of the following components:

(1) Plan maintenance. The quality faculty committee shall submit proposed plan modifications to the board of directors for consideration and approval. It is recommended that the plan be updated at least annually.

(2) A determination of the faculty and staff to be included in the plan including, but not limited to, all instructors teaching college credit courses, counselors, and media specialists.

(3) Orientation for new faculty. It is recommended that new faculty orientation be initiated within six months from the hiring date. It is recommended that the orientation of new faculty be flexible to meet current and future needs and provide options other than structured college courses for faculty to improve teaching strategies, curriculum development and evaluation strategies. It is recommended that the college consider developing a faculty mentoring program.

(4) Continuing professional development for faculty. It is recommended that the plan clearly specify required components including time frame for continuing professional development for faculty. It is recommended that the plan include the number of hours, courses, workshops, professional and academic conferences or other experiences such as industry internships, cooperatives and exchange programs that faculty may use for continuing professional development. It is recommended that the plan include prescribed and elective topics such as discipline-specific content and educational trends and research. Examples of topics that may be considered include dealing with the complexities of learners, skills in teaching adults, curriculum development, assessment, evaluation, enhancing students' retention and success, reaching nontraditional and minority students, improving skills in implementing technology and applied learning, leadership development, and issues unique to a particular college. The institutional quality faculty plan shall include professional development components for all instructional staff, counselors, and media specialists and may include reciprocity features that facilitate movement from one college to another.

(5) Procedures for accurate record keeping and documentation for plan monitoring. It is recommended that the plan identify the college officials or administrators responsible for the administration, record keeping and ongoing evaluation and monitoring of the plan. It is recommended the plan monitoring, evidence collected, and records maintained showing implementation of the plan be comprehensive in scope. It is recommended that the plan provide for the documentation that each faculty member appropriately possesses, attains or progresses toward attaining minimum competencies.

(6) Consortium arrangements where appropriate, cost-effective and mutually beneficial. It is recommended that the plan provide an outline of existing and potential consortium arrangements including a description of the benefits, cost-effectiveness, and method of evaluating consortium services.

(7) Specific activities that ensure that faculty attain and demonstrate instructional competencies and knowledge in their subject or technical areas. It is recommended that the plan identify faculty minimum competencies and explain the method or methods of determining and assessing competencies. It is recommended that the plan contain procedures for reporting faculty progress. It is recommended that faculty be notified at least once a year of their progress in attaining competencies. It is recommended that the plan include policies and provisions for length of provisional status for faculty who do not meet the minimum standards in Iowa Code section 260C.48. It is recommended that provisional status of individual faculty members not exceed five years.

(8) Procedures for collection and maintenance of records demonstrating that each faculty member has attained or documented progress toward attaining minimum competencies. It is recommended that the plan

## EDUCATION DEPARTMENT[281](cont'd)

specify data collection procedures that demonstrate how each full-time faculty member has attained or has documented progress toward attaining minimum competencies. It is recommended that the plan incorporate the current department of education management information system data submission requirements by which each college submits complete human resources data files electronically as a part of the college's year-end reporting.

(9) Compliance with the faculty accreditation standards of the North Central Association of Colleges and Schools and with faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. It is recommended that the plan provide for the uniform reports with substantiating data currently required for North Central Association of Colleges and Schools accreditation.

c. The department of education shall notify the community college when the department requires that a modified quality faculty plan be submitted. The department shall review the plan during the state accreditation on-site visits to ensure each community college's compliance and progress in implementing a quality faculty plan as approved by the local board of directors. The department shall review the following:

(1) Documents submitted by the college that demonstrate that the plan includes each component required by paragraph "b" of this subrule.

(2) Documentation submitted by the college that the board of directors approved the plan.

(3) Documentation submitted by the college that the college is implementing the approved plan, including, but not limited to, evidence of plan monitoring, evaluation and updating; evidence that the faculty has attained, or is progressing toward attaining, minimum competencies and standards contained in Iowa Code section 260C.48 as amended by 2008 Iowa Acts, House File 2679 and 2007 Iowa Acts, Senate File 588; evidence that faculty members have been notified of their progress toward attaining minimum competencies and standards; and evidence that the college meets the minimum accreditation requirements for faculty required by the North Central Association of Colleges and Schools.

(4) Documentation that the college administration encourages the continued development of faculty potential as defined in Iowa Code Supplement section 260C.36 as amended by 2008 Iowa Acts, House File 2679.

(5) Documentation of the human resources report submitted by the college through the department's community college management information system.

**ARC 7092B****EDUCATION DEPARTMENT[281]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 84, "Financial Incentives for National Board Certification," Iowa Administrative Code.

2007 Iowa Acts, chapter 108, sections 6 and 7 (Iowa Code Supplement section 256.44(1)), phased out financial incentives provided to Iowa teachers who become certified in the future by the National Board for Professional Teaching Standards. A teacher must have registered for such certification by December 31, 2007, to qualify for the reimbursement award under rule 281—84.3(256). In addition, a teacher must have registered for such certification by December 31, 2007, and have achieved certification within the timelines and policies established by the national Board to be eligible for the annual award under rule 281—84.4(256).

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 16, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Kevin Fangman, Administrator, Division of PK-12 Education, Iowa Department of Education, Third

EDUCATION DEPARTMENT[281](cont'd)

Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3333; E-mail [kevin.fangman@iowa.gov](mailto:kevin.fangman@iowa.gov); or fax (515)242-6025.

These amendments are intended to implement Iowa Code Supplement section 256.44(1).

The following amendments are proposed.

ITEM 1. Amend rule 281—84.1(256) as follows:

**281—84.1(256) Purpose.** National Board Certification (NBC) is available to teachers nationwide and requires candidates to demonstrate their teaching practice as measured against high and rigorous standards. NBC teachers enhance the educational experience of their students and motivate fellow teachers toward excellence in classroom teaching. These rules implement the two financial incentive pilot programs enacted by the Iowa legislature to increase the number of NBC teachers in Iowa.

NOTE: Pursuant to Iowa Code Supplement section 256.44, the financial incentives for NBC teachers are available only to teachers who registered for national board certification on or before December 31, 2007. Funds are available to honor the registration reimbursements in rule 84.3(256) and the annual awards in rule 84.4(256) for eligible individuals.

ITEM 2. Amend paragraph **84.3(1)“e”** as follows:

e. The individual completes the department’s application process, which includes submitting verification of NBC registration. The teacher must have registered with NBPTS no later than December 31, 2007.

ITEM 3. Amend subrule **84.4(1)**, introductory paragraph, as follows:

**84.4(1) Eligibility.** ~~Individuals~~ In addition to having registered with NBPTS no later than December 31, 2007, and achieving certification within NBPTS-established timelines and policies, individuals eligible for the NBC annual award shall meet all of the following qualifications:

**ARC 7084B**

## **HISTORICAL DIVISION[223]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 303.1A, the Director of the Department of Cultural Affairs proposes to amend Chapter 50, “Historic Site Preservation Grant Program,” Iowa Administrative Code.

The proposed amendments to Chapter 50 would put in place an emergency grant program for disaster relief.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on September 17, 2008. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail [kristen.vandermolen@iowa.gov](mailto:kristen.vandermolen@iowa.gov). Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing on September 17, 2008, at 10 a.m. at the above address in the Tone Board Room. At the hearing, persons may present their views either orally or in writing. Persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 7085B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 303.

## ARC 7110B

**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 239B.4(6) and 249A.4, the Department of Human Services proposes to amend Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," Chapter 43, "Alternate Payees," Chapter 45, "Payment," Chapter 46, "Overpayment Recovery," Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

The proposed amendments:

- Specify that for Medicaid and the Family Investment Program (FIP), when both parents or a parent and a stepparent are in the home, either one may sign the application, the review forms, and the statement of citizenship form and attest to the information for the entire household. Currently, both are required to sign.
- Remove the requirement that the Medicaid or FIP applicant or participant sign Form 470-0169, Requirements of Support Enforcement. Because this is not an eligibility requirement and there has been no penalty for failing to sign the form, the requirement is unnecessary.
- Remove obsolete retrospective budgeting terms.
- Change the terms "county office" and "local office" to "department" or "income maintenance unit" to coordinate with implementation of the Income Maintenance Customer Call Center.
- Change the term "Medicaid recipient" to "Medicaid member" to reflect the philosophy of the Iowa Medicaid Enterprise.

These changes eliminate unnecessary paperwork and reduce delays in determining eligibility for Medicaid and FIP. The changes also align procedures across programs, as Food Assistance already allows one adult to sign forms and attest to information for the entire household. Requiring two signatures is unnecessary and is impracticable for applications completed and submitted electronically.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 17, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319 0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code chapters 239B and 249A.

The following amendments are proposed.

ITEM 1. Amend rule 441—40.22(239B) as follows:

**441—40.22(239B) Application.** The application for the family investment program shall be submitted on the Health and Financial Support Application, Form 470-0462 or Form 470-0466 (Spanish). ~~Form 470-0462 or Form 470-0466 (Spanish)~~ The application shall be signed by the applicant, the applicant's authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf. When both parents, or a parent and a stepparent, are in the home, ~~both shall~~ and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and attest to the information for the assistance unit.

**40.22(1)** No change.

**40.22(2)** An applicant may be assisted by other individuals in the application process; the client may be accompanied by such individuals in contact with the ~~local office~~ department, and when so accompanied,

## HUMAN SERVICES DEPARTMENT[441](cont'd)

may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process.

**40.22(3)** The applicant shall immediately be given an application form to complete. When the applicant requests that the ~~forms~~ form be mailed, the ~~local office~~ department shall send the necessary forms in the next outgoing mail.

**40.22(4)** No change.

**40.22(5)** Reinstatement.

*a.* and *b.* No change.

*c.* When eligibility factors are met, assistance shall be reinstated when one of the following completed forms is received by the ~~local office~~ department within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned:

(1) Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S).

~~(2) Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S).~~

~~(3)~~ (2) Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M).

*d.* No change.

This rule is intended to implement Iowa Code sections 239B.3, 239B.5 and 239B.6.

ITEM 2. Amend rule 441—40.23(239B) as follows:

**441—40.23(239B) Date of application.** The date of application is the date an identifiable Health and Financial Support Application, Form 470-0462 or Form 470-0466 (Spanish), is received ~~in any local office by the department~~. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open.

**40.23(1)** The date of application is also the date an identifiable application is received by a designated worker who is in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided. The hospital, health center or other facility will forward the application to the department office that is responsible for the completion of the eligibility determination.

**40.23(2)** An identifiable application is an application containing a legible name and address that has been signed.

**40.23(3)** A new application is not required when adding a person to an existing eligible group. This person is considered to be included in the application that established the existing eligible group. However, in these instances, the date of application to add a person is the date the change is reported. When it is reported that a person is anticipated to enter the home, the date of application to add the person shall be the date of the report.

*a.* In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the date of application to add the person is the date the person indicated willingness to cooperate.

*b.* EXCEPTIONS:

(1) When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the date of application to add the person is the date the social security number or proof of application for a social security number is provided.

(2) When adding a person who was previously excluded from the eligible group as described at 441—~~subrules~~ subrule 41.23(5), or 41.25(5) ~~and 46.28(2) and or~~ rule 441—46.29(239B), the date of application to add the person is the first day after the period of ineligibility has ended.

(3) When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the date of application to add the person is the date the person signs a family investment agreement.

This rule is intended to implement Iowa Code section 239B.2.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Amend rule 441—40.24(239B) as follows:

**441—40.24(239B) Procedure with application.**

**40.24(1)** The decision with respect to eligibility shall be based primarily on information furnished by the applicant.

a. No change.

b. The ~~local office~~ department shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or verification, or refusal by the applicant to authorize the ~~local office~~ department to secure the information or verification from other sources, shall serve as a basis for denial of assistance.

(1) Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. The ~~local office~~ department shall extend the deadline when the applicant requests an extension because the applicant is making every effort to supply the information or verification but is unable to do so.

(2) No change.

c. No change.

**40.24(2)** In processing an application, the ~~local office~~ department or the designated worker as described in ~~rule 441—40.23(239B)~~ subrule 40.23(1) who is in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided shall conduct at least one face-to-face interview with the applicant before approval of the initial application for assistance and a face-to-face or telephone interview before approval of any subsequent application for assistance.

a. to c. No change.

**40.24(3)** The applicant who is subject to quarterly reporting as described in 40.27(1) shall become responsible for completing Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR,~~ after the time of the interview. The report form shall be issued and returned according to the requirements in 40.27(4) “b.”

a. and b. No change.

c. The ~~local office~~ department shall explain to the applicant at the time of the interview the applicant’s responsibility to complete and return the report form.

**40.24(4)** The decision with respect to eligibility shall be based on the applicant’s eligibility or ineligibility on the date the ~~local office~~ department enters all eligibility information into the department’s computer system, except as described in 40.24(3). The applicant shall become a recipient on the date ~~the local office enters all eligibility information is entered~~ into the department’s computer system and the computer system determines the applicant is eligible for aid.

This rule is intended to implement Iowa Code sections 239B.4, 239B.5 and 239B.6.

ITEM 4. Strike the words “local office” wherever they appear in rule **441—40.25(239B)** and insert the word “department” in lieu thereof.

ITEM 5. Amend rule 441—40.27(239B) as follows:

**441—40.27(239B) Continuing eligibility.**

**40.27(1)** Eligibility factors shall be reviewed at least every six months for the family investment program. A semiannual review shall be conducted using information contained in and verification supplied with Form 470-0454, 470-0455 or 470-3719(S), Public Assistance Eligibility Report, ~~or Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S).~~ An interview shall be conducted at least annually at the time of a review using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document. When the client has completed a Health and Financial Support Application, Form 470-0462 or 470-0466 (Spanish), for another purpose required by the department, this form may be used as the review document for the semiannual or annual review.

a. No change.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

b. The assistance unit subject to quarterly reporting shall complete a Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S), ~~or Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S),~~ for each quarter, unless the assistance unit is required to complete Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, for that month. The payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf shall sign the Public Assistance Eligibility Report. When both parents or a parent and a stepparent are in the home, both shall and eligibility is determined on a family or household basis, either parent or the stepparent may sign the form and attest to the information for the assistance unit.

40.27(2) No change.

40.27(3) Information for semiannual reviews shall be submitted on Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR.~~ Information for the annual determination interview shall be submitted on Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document.

a. When the client has completed Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as the quarterly report or as the review document for the semiannual or annual review.

~~a. b.~~ The review form shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf.

~~b. — When both parents or a parent and a stepparent are in the home, both shall sign the Public Assistance Eligibility Report, the Combined PAER/FAIR, the Review/Recertification Eligibility Document, or the Health and Financial Support Application.~~

40.27(4) Responsibilities of recipients. For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. No change.

b. The recipient shall complete Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR,~~ or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, when requested by the local office department in accordance with these rules. The form department shall ~~be supplied~~ supply the form as needed to the recipient ~~by the department.~~ The department shall pay the cost of postage to return the form.

(1) When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the local office department by the fifth calendar day of the following month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the local office department by the seventh day ~~of the month~~ after the date it is mailed by the department.

(2) The local office department shall supply the recipient with Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), 470-4387(S), Combined PAER/FAIR,~~ or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, on request.

(3) No change.

c. The recipient shall supply, insofar as the recipient is able, additional information needed to establish eligibility and the amount of the family investment program grant within five working days from the date a written request is mailed by the local office department to the recipient's current mailing address or given to the recipient. The local office department shall extend the deadline when the recipient requests an extension because the recipient is making every effort to supply the information or verification but is unable to do so.

(1) "Supply" shall mean that the requested information is received by the department by the specified due date.

(2) The recipient shall give written permission for release of information when the recipient is unable to furnish information needed to establish eligibility and the amount of the family investment program grant.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Failure to supply the information or refusal to authorize the ~~local office~~ department to secure the information from other sources shall serve as a basis for cancellation of assistance.

d. to g. No change.

**40.27(5)** After assistance has been approved, eligibility for continuing assistance and the amount of the grant shall be effective as of the first of each month. Any change affecting eligibility or benefits reported during a month shall be effective the first day of the next calendar month except as follows:

a. and b. No change.

c. When the recipient reports a change in income or circumstances timely, as defined in 40.24(1) or 40.27(4), the department shall determine prospective eligibility and the grant amount for the following month based on the change.

(1) A payment adjustment shall be made when indicated.

(2) Recoupment shall be made for any overpayment, with one exception. When a change in income is timely reported by a recipient and timely acted upon by the ~~local office~~ department, but the timely notice, as required by 441—7.7(17A), requires the action be delayed until the second calendar month following the month of change, and eligibility continues, recoupment shall not be made.

d. to g. No change.

This rule is intended to implement Iowa Code sections 239B.2, 239B.3, 239B.5, 239B.6 and 239B.18.

ITEM 6. Strike the words “local office” wherever they appear in rule **441—40.28(239B)** and insert the word “department” in lieu thereof.

ITEM 7. Amend rule 441—41.22(239B) as follows:

**441—41.22(239B) Eligibility factors specific to payee.**

**41.22(1) to 41.22(3)** No change.

**41.22(4) *Liability of relatives.*** All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity.

a. When necessary to establish eligibility, the ~~local office~~ income maintenance unit shall make the initial contact with the absent parent at the time of application. Subsequent contacts shall be made by the child support recovery unit.

b. When contact with the family investment program family or other sources of information ~~indicates~~ indicate that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the ~~local office~~ income maintenance unit shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

**41.22(5) *Referral to child support recovery unit.*** The ~~county office~~ income maintenance unit shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

a. A referral to the child support recovery unit shall not be made when a parent’s absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. “Prompt notice” means within two working days of the date assistance is approved.

**41.22(6) *Cooperation in obtaining support.*** Each applicant for or recipient of the family investment program shall cooperate with the department in establishing paternity and securing support for persons whose needs are included in the assistance grant, except when good cause as defined in 41.22(8) for refusal to cooperate is established.

a. No change.

b. Cooperation is defined as including the following actions by the applicant or recipient:

(1) Appearing at the ~~local office~~ of the income maintenance unit or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably

## HUMAN SERVICES DEPARTMENT[441](cont'd)

obtained by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) to (5) No change.

c. The applicant or recipient shall cooperate with the ~~local office~~ income maintenance unit in supplying information with respect to the absent parent, the receipt of support, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. No change.

e. In the circumstance as described at paragraph "b," subparagraph (4), the income maintenance unit ~~in the county office~~ shall make the determination of whether or not the ~~client~~ applicant or recipient has cooperated. In all other instances, the child support recovery unit (~~CSRU~~) shall make the determination of whether the ~~client~~ applicant or recipient has cooperated. ~~CSRU~~ The child support recovery unit delegates the income maintenance unit ~~in the county office~~ to make this determination for applicants.

f. No change.

**41.22(7) Assignment of support payments.** Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person ~~as that~~ the applicant or recipient may have. ~~This~~ These shall include rights to support in the applicant's or recipient's own behalf or in behalf of any other family member for whom the applicant or recipient is applying or receiving assistance and which have accrued at the time the assignment is executed. An assignment is effective the same date ~~the county office enters~~ all eligibility information is entered into the department's computer system and is effective for the entire period for which assistance is paid.

~~a. — Rescinded IAB 11/8/06, effective 1/1/07.~~

~~b. — Rescinded IAB 7/1/98, effective 7/1/98.~~

~~c. — Reserved.~~

~~d. — Reserved.~~

~~e. — Rescinded IAB 12/3/97, effective 2/1/98.~~

**41.22(8) Good cause for refusal to cooperate.** Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The ~~local office~~ income maintenance unit shall determine that cooperation is against the child's best interest when the applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(1) to (4) No change.

b. The ~~local office~~ income maintenance unit shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the ~~local office~~ income maintenance unit believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(1) to (3) No change.

c. and d. No change.

**41.22(9) Claiming good cause.** Each applicant for or recipient of the family investment program who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

a. ~~Prior to~~ Before requiring cooperation, the ~~county office~~ income maintenance unit shall notify the applicant or recipient ~~on using~~ Form 470-0169, Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination. ~~One copy of this form shall be given to the applicant or recipient and one copy shall be signed by the applicant or recipient and the worker and filed in the case record.~~

b. The initial notice advising of the right to refuse to cooperate for good cause shall:

(1) to (3) No change.

(4) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the ~~local office~~ income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or recipient will be excused from the cooperation requirement.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) Advise the applicant or recipient that upon request, or following a claim of good cause, the ~~local office~~ income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or recipient makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the ~~county office~~ income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. ~~When the applicant or recipient chooses to~~ To claim good cause, the applicant or recipient shall sign and date Form 470-0170 shall be signed and dated by the client and returned return it to the county office income maintenance unit. This form:

(1) Indicates that the applicant or recipient must provide corroborative evidence of a good cause circumstance and must, when requested, furnish sufficient information to permit the ~~local office~~ income maintenance unit to investigate the circumstances.

(2) Informs the applicant or recipient that, upon request, the ~~local office~~ income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.

(3) Informs the applicant or recipient that on the basis of the corroborative evidence supplied and the ~~agency's department's~~ investigation when necessary, the ~~local office~~ income maintenance unit will determine whether cooperation would be against the best interest of the child for whom support would be sought.

(4) No change.

(5) Informs the applicant or recipient that the child support recovery unit may review the ~~local office's~~ income maintenance unit's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or recipient that the child support recovery unit may attempt to establish paternity and collect support in those cases where the ~~local office~~ income maintenance unit determines that this can be done without risk to the applicant or recipient if done without the applicant's or recipient's participation.

d. The applicant or recipient who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the ~~local office~~ income maintenance unit to determine that good cause does not exist. The applicant or recipient shall:

(1) to (3) No change.

**41.22(10) Determination of good cause.** The ~~local office~~ income maintenance unit shall determine whether good cause exists for each applicant for or recipient of the family investment program who claims to have good cause.

a. The applicant or recipient shall be notified by the ~~local office~~ income maintenance unit of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the ~~local office's~~ income maintenance unit's findings and basis for determination.

(3) No change.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The ~~local office~~ income maintenance unit may exceed this time standard only when:

(1) The case record documents that the ~~office~~ income maintenance unit needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) No change.

c. When the ~~local office~~ income maintenance unit determines that good cause does not exist:

(1) and (2) No change.

d. The ~~local office~~ income maintenance unit shall make a good cause determination based on the corroborative evidence supplied by the applicant or recipient only after ~~it~~ the unit has examined the evidence and found that it actually verifies the good cause claim.

e. ~~Prior to~~ Before making a final determination of good cause for refusing to cooperate, the ~~local office~~ income maintenance unit shall:

(1) and (2) No change.

f. and g. No change.

h. The ~~local office~~ income maintenance unit shall:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) and (2) No change.

**41.22(11) *Proof of good cause.*** The applicant or recipient who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the ~~local office~~ income maintenance unit determines that the applicant or recipient requires additional time because of the difficulty in obtaining the corroborative evidence, the ~~local office~~ income maintenance unit shall allow a reasonable additional period of time upon approval by the worker's immediate supervisor.

a. No change.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the ~~local office~~ income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the ~~local office~~ income maintenance unit shall:

(1) and (2) No change.

c. When the applicant or recipient requests assistance in securing evidence, the ~~local office~~ income maintenance unit shall:

(1) and (2) No change.

d. When a claim is based on the applicant's or recipient's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The ~~local office~~ income maintenance unit will investigate the good cause claim when the ~~office unit~~ believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause will be found when the claimant's statement and investigation which is conducted satisfies the ~~office~~ income maintenance unit that the applicant or recipient has good cause for refusing to cooperate.

(3) No change.

e. The ~~local office~~ income maintenance unit may further verify the good cause claim when the applicant's or recipient's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the ~~local office~~ income maintenance unit determines that it is necessary, ~~it the unit~~ may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the ~~local office~~ income maintenance unit will:

(1) and (2) No change.

**41.22(12) *Enforcement without caretaker's cooperation.*** When the ~~local office~~ income maintenance unit makes a determination that good cause exists, ~~it the unit~~ shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or caretaker relative when the enforcement or collection activities do not involve ~~their~~ the participation of the child or caretaker.

a. ~~Prior to making the determination, the~~ The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination, and the ~~local office~~ income maintenance unit shall consider any recommendation from the child support recovery unit.

b. The determination shall:

(1) ~~be~~ Be in writing,

(2) ~~contain~~ Contain the ~~local office's~~ income maintenance unit's findings and basis for determination, and

(3) ~~be~~ Be entered into the family investment program case record.

c. When the ~~local office~~ income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, ~~it the income maintenance unit~~ will notify the applicant or recipient to enable the individual to withdraw the application for assistance or have the case closed.

**41.22(13) to 41.22(17)** No change.

**41.22(18) *Determination of good cause for not living in the home of a parent or legal guardian.*** The ~~county office~~ department shall determine whether good cause exists for each applicant or recipient who claims good cause.

a. The applicant or recipient shall be notified by the ~~county office~~ department of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the ~~county office's~~ department's findings and basis for determination.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Be entered in the family investment program case record.

b. When the ~~county office~~ department determines that good cause does not exist:

(1) to (3) No change.

c. The ~~county office~~ department shall:

(1) and (2) No change.

**41.22(19) Proof of good cause for not living in the home of a parent or legal guardian.** The applicant or recipient who claims good cause shall provide corroborative evidence to prove the good cause claim within the time frames described at 441—subrule 40.24(1) and paragraph 40.27(4) “c.”

a. No change.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the ~~county office~~ department wishes to request additional corroborative evidence which is needed to permit a good cause determination, the ~~county office~~ department shall:

(1) and (2) No change.

c. When the applicant or recipient requests assistance in securing evidence, the ~~county office~~ department shall:

(1) and (2) No change.

This rule is intended to implement Iowa Code chapter 239B.

ITEM 8. Amend subparagraph **41.23(5)“b”(1)** as follows:

~~(1) The applicant or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf shall sign the form. When both parents are in the home, both shall sign a form attesting to their citizenship.~~

ITEM 9. Strike the words “county office” and “local office” wherever they appear in subrules **41.24(1)** and **41.24(5)** and insert the word “department” in lieu thereof.

ITEM 10. Amend paragraph **41.26(8)“b”** as follows:

b. When the ~~local office~~ department questions whether the funds in a trust or conservatorship are available, ~~the local office shall refer~~ the trust or conservatorship shall be referred to the central office.

(1) When assets in the trust or conservatorship are not clearly available, central office staff may contact the trustee or conservator and request that the funds in the trust or conservatorship be made available for current support and maintenance. When the trustee or conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

(2) Funds in a trust or conservatorship that are not clearly available shall be considered unavailable until the trustee, conservator or court actually makes the funds available. Payments received from the trust or conservatorship for basic or special needs are considered income.

ITEM 11. Strike the words “country office” and “local office” wherever they appear in rule **441—41.27(239B)** and insert the word “department” in lieu thereof.

ITEM 12. Amend subparagraph **41.27(9)“b”(1)** as follows:

(1) The ~~local office~~ department shall prospectively compute eligibility and benefits when a Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S); ~~a Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S);~~ or a Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), ~~or~~ 470-4083 (Spanish), or 470-4083(M), is completed as described in 441—40.27(239B). All countable earned and unearned income received by the eligible group during the previous 30 days shall be used to project future income. If the participant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

ITEM 13. Amend subrule 41.27(11) as follows:

**41.27(11) Restriction on diversion of income.** No income may be diverted to meet the needs of a person living in the home who has been sanctioned under subrule 41.24(8) or 41.25(5), or who has been disqualified under subrule 41.25(10) or rule ~~441—46.28(239B) or 441—46.29(239B)~~, or who is required to be included

## HUMAN SERVICES DEPARTMENT[441](cont'd)

in the eligible group according to 41.28(1)“a” and has failed to cooperate. This restriction applies to 41.27(4)“a” and 41.27(8).

ITEM 14. Amend subparagraph **41.30(3)“c”(2)** as follows:

(2) In families that request FIP beyond 60 months, ~~all~~ one of the adults as defined in subrule 41.30(1) shall sign the request. When the adult is incompetent or incapacitated, someone acting responsibly on the adult’s behalf may sign the request.

ITEM 15. Amend subrule 43.21(1) as follows:

**43.21(1)** When application is filed for the family investment program by a person under conservatorship or guardianship, a copy of the court order shall be secured by the ~~local office~~ department. Assistance payments shall be made to the conservator or guardian to be allocated for the support and care of the dependent child.

ITEM 16. Amend rule 441—45.22(239B) as follows:

**441—45.22(239B) Return.** Assistance warrants are not forwardable. When ~~they~~ warrants cannot be delivered by the post office, they shall be returned to ~~either the local office or to the central office~~ the department.

ITEM 17. Strike the words “local office” wherever they appear in paragraph **45.24(1)“a”** and insert the word “department” in lieu thereof.

ITEM 18. Amend rule 441—45.25(239B) as follows:

**441—45.25(239B) Deceased payees.** A retroactive corrective payment shall be made for deceased payees only when the payment was approved by the ~~local office prior to~~ department before the recipient’s death. Payment for a special need shall be made only when the payment is entered on the automated benefit calculation system ~~prior to before~~ the effective date of cancellation.

ITEM 19. Amend rule **441—46.21(239B)**, definition of “Procedural error,” as follows:

“Procedural error” means a technical error that does not in and of itself result in an overpayment. Procedural errors include:

1. and 2. No change.
3. Failure of the ~~local office~~ department to conduct the interviews described in 441—subrules 40.24(2) and 40.27(1).
4. Failure to request a Public Assistance Eligibility Report, ~~a Combined PAER/FAIR~~, or a Review/Recertification Eligibility Document at the time of a quarterly, semiannual, or annual review.
5. Failure of ~~local office~~ department staff to cancel the family investment program benefits when the client submits a Public Assistance Eligibility Report, ~~a Combined PAER/FAIR~~, or a Review/Recertification Eligibility Document that is not complete as defined in 441—paragraph 40.27(4)“b.” However, overpayments of grants as defined above based on incomplete reports are subject to recoupment.

ITEM 20. Amend rule 441—46.23(239B) as follows:

**441—46.23(239B) Notification and appeals.** All clients shall be notified by the department of inspections and appeals, as described at 441—subrule 7.5(6), when it is determined that an overpayment exists. Notification shall include the amount, date and reason for the overpayment. The ~~local office~~ department shall provide additional information regarding the computation of the overpayment upon the client’s request. The client may appeal the computation of the overpayment and any action to recover the overpayment through benefit reduction in accordance with 441—subrule 7.5(6).

ITEM 21. Amend subrule 46.27(2) as follows:

**46.27(2) Referral.** When the ~~local office~~ department determines that an overpayment exists, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

ITEM 22. Amend paragraphs **75.11(2)“b,” “c”** and **“f”** as follows:

b. As a condition of eligibility, each ~~recipient member~~ shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the ~~recipient’s~~ member’s citizenship or alien status. ~~The form~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~shall be signed by the recipient, or when~~ When the recipient member is incompetent or deceased, the form shall be signed by someone acting responsibly on the recipient's member's behalf. ~~When both parents are in the home, both shall sign the form.~~ An adult recipient shall sign the form for dependent children.

(1) As a condition of eligibility, all applicants for Medicaid shall attest to their citizenship status by signing the application form which contains the same declaration.

(2) As a condition of continued eligibility, ~~recipients of~~ SSI-related Medicaid members not actually receiving SSI who have been continuous ~~recipients~~ members since August 1, 1988, shall attest to their citizenship status by signing the application form which contains a similar declaration at time of review.

c. Except as provided in paragraph "f," applicants or members ~~who attest that they are citizens or nationals of the United States~~ for whom an attestation of United States citizenship has been made pursuant to paragraph "b" shall present satisfactory documentation of citizenship or nationality as defined in paragraph "d" or "e." An applicant or member shall have a reasonable period to obtain and provide proof of citizenship or nationality.

(1) to (3) No change.

f. A person ~~who attests to status as a citizen or national of the United States~~ for whom an attestation of United States citizenship has been made pursuant to paragraph "b" is not required to present documentation of citizenship or nationality for Medicaid eligibility if any of the following circumstances apply:

(1) to (6) No change.

ITEM 23. Amend rule 441—75.14(249A) as follows:

**441—75.14(249A) Establishing paternity and obtaining support.**

**75.14(1)** As a condition of eligibility, Medicaid applicants and ~~recipients of Medicaid~~ members in households with an absent parent shall cooperate in obtaining medical support for ~~the each~~ applicant or ~~recipient member~~ as well as for any other person in the household for whom Medicaid is requested and for whom the ~~person~~ applicant or member can legally assign rights for medical support, except when good cause as defined in subrule 75.14(8) for refusal to cooperate is established.

a. The applicant or ~~recipient~~ member shall cooperate in the following:

(1) and (2) No change.

(3) Obtaining medical support and payments for medical care for the applicant or ~~recipient member~~ and for a child for whom Medicaid is requested.

(4) No change.

b. Cooperation is defined as including the following actions by the applicant or ~~recipient member~~:

(1) Appearing at the ~~county office~~ income maintenance unit or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or ~~recipient member~~ that is relevant to achieving the objectives of the child support recovery program.

(2) and (3) No change.

c. The applicant or ~~recipient member~~ shall cooperate with the ~~county office~~ department in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or ~~recipient member~~ shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. The income maintenance unit ~~in the county office~~ shall make the determination of whether or not the ~~client~~ applicant or member has cooperated.

**75.14(2)** Failure of the applicant or ~~recipient member~~ to cooperate shall result in denial or cancellation of the person's Medicaid benefits. In family medical assistance program (FMAP)-related Medicaid cases, all deductions and disregards described at paragraphs 75.57(2) "a," "b," and "c" shall be allowed when otherwise applicable.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

**75.14(3)** Each Medicaid applicant ~~for or recipient of Medicaid~~ member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing medical support and payments for medical care. The provisions set forth in subrules 75.14(8) to 75.14(12) shall be used when making a determination of the existence of good cause.

**75.14(4)** Each Medicaid applicant ~~for or recipient of Medicaid~~ member shall assign to the department any rights to medical support and payments for medical care from any other person for which the person can legally make assignment. This shall include rights to medical support and payments for medical care on the applicant's or ~~recipient's~~ member's own behalf or on behalf of any other family member for whom the applicant or ~~recipient~~ member is applying. An assignment is effective the same date the ~~county office enters~~ the eligibility information is entered into the automated benefit calculation system and is effective for the entire period for which eligibility is granted. Support payments not intended for medical support shall not be assigned to the department.

**75.14(5)** Referrals to the child support recovery unit for Medicaid applicants or ~~recipients~~ members. The ~~county office department~~ shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

*a.* A referral to the child support recovery unit shall not be made when a parent's absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

*b.* "Prompt notice" means within two working days of the date assistance is approved.

**75.14(6)** No change.

**75.14(7)** Notwithstanding subrule 75.14(6), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.1(28) or 75.1(24) shall not be exempt from the provisions of 75.14(4) and 75.14(5) which require the applicant or ~~recipient~~ member to assign any rights to medical support and payments for medical care and to be referred to the child support recovery unit.

**75.14(8)** Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

*a.* The ~~county office~~ income maintenance unit shall determine that cooperation is against the child's best interest when the applicant's or ~~recipient's~~ member's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(1) to (4) No change.

*b.* The ~~county office~~ income maintenance unit shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the ~~county office~~ income maintenance unit believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(1) and (2) No change.

(3) The applicant or ~~recipient~~ member is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

*c.* and *d.* No change.

**75.14(9)** Claiming good cause. Each Medicaid applicant ~~for or recipient of Medicaid~~ member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

*a.* Before requiring cooperation, the ~~county office~~ department shall notify the applicant or ~~recipient~~ member ~~on using~~ Form 470-0169 or 470-0169(S), Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination. ~~One copy of this form shall be given to the applicant or recipient and one copy shall be signed by the applicant or recipient and the worker and filed in the case record.~~

*b.* The initial notice advising of the right to refuse to cooperate for good cause shall:

(1) Advise the applicant or ~~recipient~~ member of the potential benefits the child may derive from the establishment of paternity and securing support.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Advise the applicant or ~~recipient~~ member that by law cooperation in establishing paternity and securing support is a condition of eligibility for the Medicaid program.

(3) Advise the applicant or ~~recipient~~ member of the sanctions provided for refusal to cooperate without good cause.

(4) Advise the applicant or ~~recipient~~ member that good cause for refusal to cooperate may be claimed and that if the ~~county office~~ income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or ~~recipient~~ member will be excused from the cooperation requirement.

(5) Advise the applicant or ~~recipient~~ member that upon request, or following a claim of good cause, the ~~county office~~ income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or ~~recipient~~ member makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the ~~county office~~ income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. ~~When the applicant or recipient chooses to~~ To claim good cause, the applicant or member shall sign and date Form 470-0170 shall be signed and dated by the client and returned return it to the county office income maintenance unit. This form:

(1) Indicates that the applicant or ~~recipient~~ member must provide corroborative evidence of good cause circumstance and must, when requested, furnish sufficient information to permit the county office to investigate the circumstances.

(2) Informs the applicant or ~~recipient~~ member that, upon request, the ~~county office~~ income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.

(3) Informs the applicant or ~~recipient~~ member that on the basis of the corroborative evidence supplied and the agency's investigation when necessary, the ~~county office~~ income maintenance unit shall determine whether cooperation would be against the best interests of the child for whom support would be sought.

(4) No change.

(5) Informs the applicant or ~~recipient~~ member that the child support recovery unit may review the ~~county office's income maintenance unit's~~ findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or ~~recipient~~ member that the child support recovery unit may attempt to establish paternity and collect support in those cases where the ~~county office~~ income maintenance unit determines that this can be done without risk to the applicant or ~~recipient~~ member if done without the applicant's or ~~recipient's~~ member's participation.

d. The applicant or ~~recipient~~ member who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the ~~county office~~ income maintenance unit to determine that good cause does not exist. The applicant or ~~recipient~~ member shall:

(1) Specify the circumstances that the applicant or ~~recipient~~ member believes provide sufficient good cause for not cooperating.

(2) and (3) No change.

**75.14(10)** Determination of good cause. The ~~county office~~ income maintenance unit shall determine whether good cause exists for each Medicaid applicant ~~for or recipient of the Medicaid program~~ member who claims to have good cause.

a. The income maintenance unit shall notify the applicant or ~~recipient~~ member of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the ~~county office's~~ income maintenance unit's findings and basis for determination.

(3) Be entered in the case record.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The ~~county office~~ income maintenance unit may exceed this time standard only when:

(1) The case record documents that the ~~county office~~ income maintenance unit needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) No change.

c. When the ~~county office~~ income maintenance unit determines that good cause does not exist:

(1) The applicant or ~~recipient~~ member shall be so notified and be afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) No change.

d. The ~~county office~~ income maintenance unit shall make a good cause determination based on the corroborative evidence supplied by the applicant or ~~recipient~~ member only after ~~it~~ the income maintenance unit has examined the evidence and found that it actually verifies the good cause claim.

e. ~~Prior to~~ Before making a final determination of good cause for refusing to cooperate, the ~~county office~~ income maintenance unit shall:

(1) and (2) No change.

f. The child support recovery unit may participate in any appeal hearing that results from an applicant's or ~~recipient's~~ member's appeal of an agency action with respect to a decision on a claim of good cause.

g. Assistance shall not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate when the applicant or ~~recipient~~ member has specified the circumstances under which good cause can be claimed and provided the corroborative evidence and any additional information needed to establish good cause.

h. The ~~county office~~ income maintenance unit shall:

(1) and (2) No change.

**75.14(11)** Proof of good cause. The applicant or ~~recipient~~ member who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the ~~county office~~ income maintenance unit determines that the applicant or ~~recipient~~ member requires additional time because of the difficulty in obtaining the corroborative evidence, the ~~county office~~ income maintenance unit shall allow a reasonable additional period ~~of time~~ upon approval by the worker's immediate supervisor.

a. A good cause claim may be corroborated with the following types of evidence:

(1) to (4) No change.

(5) A written statement from a public or licensed private social agency that the applicant or ~~recipient~~ member is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the applicant or ~~recipient~~ member with knowledge of the circumstances which provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the applicant or ~~recipient~~ member, the ~~county office~~ income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the ~~county office~~ income maintenance unit shall:

(1) Promptly notify the applicant or ~~recipient~~ member that additional corroborative evidence is needed, and

(2) No change.

c. When the applicant or ~~recipient~~ member requests assistance in securing evidence, the ~~county office~~ income maintenance unit shall:

(1) Advise the applicant or ~~recipient~~ member how to obtain the necessary documents, and

(2) Make a reasonable effort to obtain any specific documents which the applicant or ~~recipient~~ member is not reasonably able to obtain without assistance.

d. When a claim is based on the applicant's or ~~recipient's~~ member's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The ~~county office~~ income maintenance unit shall investigate the good cause claim when the office believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause shall be found when the claimant's statement and investigation which is conducted satisfies the county office that the applicant or ~~recipient~~ member has good cause for refusing to cooperate.

(3) No change.

e. The ~~county office~~ income maintenance unit may further verify the good cause claim when the applicant's or ~~recipient's~~ member's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the ~~county office~~ income maintenance unit

## HUMAN SERVICES DEPARTMENT[441](cont'd)

determines that it is necessary, ~~it the unit~~ may conduct an investigation of good cause claims to determine that good cause does or does not exist.

*f.* When it conducts an investigation of a good cause claim, the ~~county office~~ income maintenance unit shall:

(1) No change.

(2) ~~Prior to~~ Before making the necessary contact, notify the applicant or ~~recipient member~~ so the applicant or ~~recipient member~~ may present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

**75.14(12)** Enforcement without specified relative's cooperation. When the ~~county office~~ income maintenance unit makes a determination that good cause exists, ~~it the unit~~ shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or specified relative when the enforcement or collection activities do not involve their participation.

*a.* ~~Prior to making the determination, the~~ The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination and the ~~county office~~ income maintenance unit shall consider any recommendations from the unit.

*b.* The determination shall be in writing, contain the ~~county office's~~ income maintenance unit's findings and basis ~~or for~~ for the determination, and be entered into the case record.

*c.* When the ~~county office~~ income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, ~~it the income maintenance unit~~ shall notify the applicant or ~~recipient member~~ to enable the individual to withdraw the application for assistance or have the case closed.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

ITEM 24. Amend paragraph **76.1(3)"f"** as follows:

*f.* If an authorized representative signed the application on behalf of an applicant, the signature of the applicant or the responsible person must be on the application before the application can be approved. For FMAP and FMAP-related Medicaid, the signature of ~~each~~ a parent or stepparent in the home must be on the application before the application can be approved.

**ARC 7109B**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 225C.36, the Department of Human Services proposes to amend Chapter 184, "Individual and Family Direct Support," Iowa Administrative Code.

This amendment conforms the rules of the Family Support Subsidy Program to legislative changes enacted in 2008 Iowa Acts, Senate File 2425, section 114. The legislation provides that when a family support subsidy is terminated because the disabled person reaches the age of 18, the subsidy shall not be continued while the person's parent or guardian appeals the determination. In many situations, Department rules do allow assistance to be continued after a negative action, pending an appeal decision settling a dispute about the Department's findings of fact or conclusions of law. Under this amendment, the policy on continuation of assistance will not apply in this specific circumstance.

This amendment does not provide for waivers in specified situations because the Department does not have the authority to waive statutory provisions.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Any interested person may make written comments on the proposed amendment on or before September 17, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment is intended to implement Iowa Code section 225C.40 as amended by 2008 Iowa Acts, Senate File 2425, section 114.

The following amendment is proposed.

Amend rule 441—184.9(225C) as follows:

**441—184.9(225C) Appeals.** The parent or legal guardian of the child may appeal a denial of an application or termination of the subsidy payment pursuant to 441—Chapter 7. EXCEPTION: When the parent or guardian appeals the termination of benefits for a child who has attained the age of 18 or who will attain the age of 18 during the appeal, subsidy payments shall not be paid during the appeal after the child has turned 18. If there is a final decision in favor of the parent or legal guardian, subsidy payments shall be made consistent with the ruling.

**ARC 7101B**

**IOWA FINANCE AUTHORITY[265]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 7C.12, the Executive Director of the Iowa Finance Authority, as the Governor's designee pursuant to section 7C.12 of the Iowa Code, proposes to amend Chapter 8, "Private Activity Bond Allocation," Iowa Administrative Code.

The purpose of this amendment is to implement recently enacted federal legislation, the Housing and Economic Recovery Act of 2008, H.R. 3221, by adopting new rule 265—8.11(7C).

The Executive Director does not intend to grant waivers under the provisions of this rule, other than as may be allowed under the Authority's general rules concerning waivers.

The Executive Director will receive written comments on the proposed amendment until 4:30 p.m. on September 16, 2008. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

The Executive Director anticipates that he may make changes to the proposed amendment based on comments received from the public.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 7099B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 7C.12 and the Housing and Economic Recovery Act of 2008, H.R. 3221.

ARC 7115B

**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 17A.3(1)"b" and Iowa Code Supplement section 16.5(1)"r," the Iowa Finance Authority proposes to amend Chapter 9, "Title Guaranty Division," Iowa Administrative Code.

This amendment replaces current title plant waiver subrules with new subrules. This proposed amendment updates and clarifies the existing administrative rules needed to administer Iowa Code Supplement section 16.91(5), and conforms the rules to correspond to Iowa Code Supplement section 16.91(5) as amended by 2008 Iowa Acts, Senate File 2320, which was signed by the Governor and became effective on July 1, 2008. This amendment also updates the rules generally.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on September 16, 2008. Comments may be addressed to Loyd Ogle, Director, Title Guaranty Division of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Loyd Ogle at (515)725-4901 or E-mailed to [loyd.ogle@iowa.gov](mailto:loyd.ogle@iowa.gov).

There will be a public hearing on September 16, 2008, at 1 p.m. at the Iowa Finance Authority office, at which time persons may present their views either orally or in writing. The Iowa Finance Authority office is located at 2015 Grand Avenue, Des Moines, Iowa 50312. The public hearing will also be held concurrently through various satellite ICN sites across Iowa. These sites will be listed on the Title Guaranty Division Web site, [iowafinanceauthority.gov](http://iowafinanceauthority.gov).

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

This amendment is intended to implement Iowa Code Supplement section 16.5(1)"r," Iowa Code sections 17A.12 and 17A.16, and Iowa Code Supplement section 16.91(5) as amended by 2008 Iowa Acts, Senate File 2320.

The following amendment is proposed.

Rescind rule 265—9.7(16) and adopt the following **new** rule in lieu thereof:

**265—9.7(16) Waiver of up-to-date title plant requirement.** The division board shall consider an application by an attorney or abstractor for waiver of the use of an up-to-date title plant requirement described in Iowa Code Supplement section 16.91(5)"a"(2).

**9.7(1) Mission.** The division is authorized under Iowa Code chapter 16 to issue title guaranties throughout the state. The division's public purpose is to facilitate lenders' participation in the secondary market and to promote land title stability through use of the abstract-attorney opinion system. The division recognizes the 40-year title plant as the preferred method of providing title evidence for the purpose of issuing title guaranties. The division must weigh the benefits of the traditional title plant with other alternatives to ensure buyers and lenders high quality of title guaranties throughout the state, rapid service, and a competitive price. To assist the division in this mission, Iowa Code Supplement section 16.91(5)"b" expressly allows the division to waive the up-to-date title plant requirement.

**9.7(2) Definitions.** The following words and phrases, when used in this rule, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

"*Availability of title guaranties*" means that title guaranties are uniformly accessible throughout the state to buyers and lenders with competitive pricing, service, and quality and that there are two or more abstractors physically located in all 99 counties.

## IOWA FINANCE AUTHORITY[265](cont'd)

*“Exempt attorney-abstractor,”* as it relates to the title plant requirement, means a grandfathered attorney or a waived attorney.

*“Grandfathered attorney”* means a participating attorney who has been providing abstract services continuously from November 12, 1986, to the date of application to be a participating abstractor, either personally or through persons under the participating attorney’s supervision and control, who is exempt from the requirement to own or lease a title plant. This exemption is a personal exemption of the individual participating attorney, is not transferable, and terminates at such time as the participating attorney ceases providing abstracting services or upon the death or incapacity of the participating attorney.

*“Hardship”* means deprivation, suffering, adversity, or long-term adverse financial impact in complying with the title plant requirement that is more than minimal when considering all the circumstances. Financial hardship alone may constitute a hardship.

*“Interested person”* means a person requesting a plant waiver, all division board members, all participating abstractors in the county for which the waiver is requested, the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information that an application for waiver has been made to the division.

*“Person”* means an individual, including a corporation, limited liability company, government or governmental subdivision or agency, business trust, trust, partnership or association, or any other legal entity.

*“Public interest”* means that which is beneficial to the public as a whole, including but not limited to increasing competition among abstractors, encouraging the use of title guaranties throughout the state, making title guaranties more competitive than out-of-state title insurance, increasing the division’s market share, improving the quality of land titles, protecting consumers, and encouraging maximum participation by participating abstractors and participating attorneys physically located in all 99 counties.

*“Title plant”* means tract indices or their equivalent as maintained in each county by local custom and practice for real estate in each county in which abstracts are prepared for real property titles guaranteed by the division. The tract indices shall contain a reference to all instruments affecting the real estate which are recorded in the office of the county recorder and shall commence not less than 40 years prior to the date the abstractor commences participation in the title guaranty program.

*“Waiver”* or *“Variance”* means an action by the division which suspends in whole or in part the requirement of the use of a current tract index described in Iowa Code Supplement section 16.91(5) as applied to an abstractor.

**9.7(3) Filing of application.** An applicant must submit a plant waiver application in writing to the attention of the director of the Title Guaranty Division of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312.

**9.7(4) Content of application.** The title guaranty division may provide an application form on the division’s Web site. A plant waiver application shall include, at a minimum, the following information where applicable and known to the applicant:

- a. The name, business address, E-mail address, and telephone number of the abstractor for whom a waiver is being requested;
- b. The type of waiver being requested, as described in subrule 9.7(8);
- c. A general description of the applicant’s business;
- d. A description of intention to develop a 40-year tract index;
- e. The relevant facts that the applicant believes would justify a waiver under subrules 9.7(7) and 9.7(8); and
- f. A signed statement from the applicant attesting to the accuracy of the facts provided in the application.

**9.7(5) Notification and response.**

a. The division director shall acknowledge an application upon receipt. All interested persons shall be contacted by E-mail and Web-site posting, and notice shall be given by United States first-class mail to any party requesting the same in writing. Notice shall be given within 14 days of the receipt of the application by the division director. Notification to an interested person is not a requirement for the division board to consider the waiver, and failure to inform an interested person of an application for waiver shall not void or otherwise nullify any action or decision of the division board.

- b. Any person may submit a written statement in support of or in opposition to the application.

## IOWA FINANCE AUTHORITY[265](cont'd)

c. The application shall be placed on the agenda for the next scheduled division board meeting which is at least 30 days after the application is filed unless a special meeting is requested by the chairperson of the board or by written request of two board members.

**9.7(6) Board meeting action.**

a. The informal review of the waiver is not a contested case proceeding but other agency action wherein the rules of evidence are not applicable.

b. To preserve order, the chairperson of the board may set reasonable limitations upon the number of persons who may appear before the division board and the time allotted for presentations in favor of and against the requested waiver.

c. Title guaranty director review. The title guaranty director shall investigate and review the petition and its supporting documentation and, at the waiver meeting before the board, shall give the board a recommendation to grant or deny the waiver.

d. The board shall consider the application, the criteria and type of waiver set forth in subrules 9.7(7) and 9.7(8), and then vote on the application.

**9.7(7) Criteria for waiver or variance.** In response to an application completed pursuant to subrule 9.7(4), the division board may issue a ruling permanently or provisionally waiving the requirement set forth in Iowa Code Supplement section 16.91(5) "a"(2) of an up-to-date title plant requirement, if the board finds both of the following:

a. The title plant requirement described in Iowa Code Supplement section 16.91(5) "a"(2) imposes a hardship to the abstractor or attorney; and

b. The waiver is:

(1) Clearly in the public interest; or

(2) Absolutely necessary to ensure availability of title guaranties throughout the state.

**9.7(8) Type of waiver or variance granted.** Provisional and permanent waivers described in this subsection may be granted by the division board. Guidelines for provisional and permanent waivers are as follows:

a. *Provisional waivers.* The division board may grant a provisional waiver of one year or less to an applicant intending to build a title plant. If such time period is not sufficient, the applicant may reapply to the division board for an extension of the waiver up to one additional year at the discretion of the division board. The division board may grant a provisional waiver when the applicant provides the following:

(1) Evidence that a title plant will be built for a specified county;

(2) Evidence of significant financial loss due to the inability to provide abstracts for the division;

(3) Evidence that the provisional waiver is necessary in order to produce a revenue stream to justify the expense associated with building a title plant; and

(4) Professional references from two licensed Iowa attorneys or one participating plant-abstractor attesting to the applicant's ability to abstract.

b. *Permanent waivers for attorneys.* The division board may grant a permanent waiver to an Iowa-licensed attorney.

(1) Attorneys granted a permanent waiver hold the same status as grandfathered attorneys and, absent express legislative authority to the contrary, the board will not limit geographically an attorney's ability to abstract for the division. However, the applicant may by contract with the division board agree voluntarily to limit the applicant's abstracting for the division to one or more specified counties.

(2) A permanent waiver is personal in nature and nontransferable. An attorney granted a permanent waiver shall be personally liable for abstracting conducted on behalf of the division. Although an attorney may abstract through a separate entity, such liability cannot be transferred to a corporate entity nor may an attorney utilize a corporate structure which would shield the attorney from personal liability.

(3) Permanent waivers are predicated upon the attorney's retaining an Iowa license to practice law. An attorney whose license is suspended shall reapply to the division director upon reinstatement by the Iowa Supreme Court. The division director has the discretion to refer the matter to the division board.

(4) There are two circumstances when an attorney may be granted a permanent waiver:

1. For attorney applicants with experience abstracting under the supervision and control of an exempt attorney-abstractor, the board shall consider, at a minimum, the following:



## IOWA FINANCE AUTHORITY[265](cont'd)

- The applicant's abstract experience. The board shall give considerable weight to an applicant's experience abstracting under the personal supervision and control of an exempt attorney-abstractor with whom the applicant has had a close working relationship or with whom the applicant is a legal partner or associate.

- Professional references. The board shall give considerable weight to a recommendation from the exempt attorney-abstractor or grandfathered attorney who personally supervised the applicant's abstracting for a period of two years or more and who attests in writing or in person before the division board regarding the applicant's ability to abstract.

- Samples of abstracts prepared by the applicant.

- The division board shall give consideration to the number of participating abstractors physically located in the county or counties where the applicant seeks to abstract in determining whether a waiver should be granted.

2. For attorney applicants without experience working under the supervision and control of an exempt attorney abstractor, the board shall consider, at a minimum, the following:

- The applicant's abstract experience;

- Professional references;

- Samples of abstracts prepared by the applicant;

- The applicant's business plan;

- Evidence of clients and volume of additional transactions that will be brought into the title guaranty abstract/attorney system as a result of the waiver;

- The number, availability, service and quality of other abstractors available to perform abstracting and whether the grant of a permanent waiver will adversely impact the business of other participating abstractors;

- Whether the applicant demonstrates the inability to abstract under the supervision and control of an exempt attorney.

c. *Permanent waivers for non-attorneys.*

(1) The board may grant a permanent waiver with limitations as to county, or transaction type, or both.

(2) In determining whether to grant a waiver, the board shall consider, at a minimum, the following:

1. The applicant's abstract experience, maintenance of a title plant by the applicant in any other county, and degree of participation by the applicant in the title guaranty division standards in excellence program;

2. Professional references;

3. Samples of abstracts prepared by the applicant;

4. The applicant's business plan;

5. Evidence of clients and volume of additional transactions that will be brought into the title guaranty abstract/attorney system as a result of the waiver;

6. The number, availability, service and quality of other abstractors available to perform abstracting and whether the grant of a permanent waiver will adversely impact the business of other participating abstractors.

**9.7(9) Ruling.** The division board shall direct the division director to prepare, or cause to be prepared, a proposed written ruling setting forth the board's rationale for granting or denying the waiver. Action to adopt or direct changes to the proposed ruling will be taken by the division board at a subsequent meeting. However, if the board directs the division director to prepare a proposed ruling granting the waiver, the applicant may start abstracting while the ruling is being prepared, and staff shall issue a new participating abstractor number to the applicant immediately.

a. The ruling granting or denying a waiver shall contain a reference to the particular applicant, discuss the application of subrules 9.7(7) and 9.7(8), and describe how granting the waiver would or would not advance the division's statutory mission described in subrule 9.7(1). The ruling will summarize the relevant facts and reasons upon which the action is based and include a description of the precise scope and duration of the waiver if the waiver contains limitations, restrictions or requirements.

b. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the division board upon consideration of all relevant factors. Relevant factors to be considered are the unique circumstances set out in the application, presentations given before the board, the professional knowledge and expertise of the board members and division staff, and any other resources

IOWA FINANCE AUTHORITY[265](cont'd)

available to the entire division board. Consideration should be afforded to rulings on prior plant waiver requests, but the division board shall not be bound by such rulings.

c. Within seven days of its issuance, any ruling issued under subrule 9.7(9) shall be transmitted to the applicant, the Iowa State Bar Association and the Iowa Land Title Association.

d. The decision of the division board shall be final agency action and all appeals shall be filed with the Iowa District Court for Polk County.

**9.7(10) Title plant certification.** For applicants granted a provisional waiver, division staff shall inspect the title plant and certify to the division board that the title plant is complete before the board may grant up-to-date title plant status to the applicant. Upon certification of up-to-date title plant status, the applicant must obtain approval from the division to conduct business under a name other than the entity to which the provisional waiver was granted. Any transfer of a title plant must be approved by division staff in order for the title plant to be a title guaranty abstractor.

**9.7(11) Public availability.** Applications for waivers and rulings on waiver applications are public records under Iowa Code chapter 22. Some applications or rulings may contain information the division is authorized or required to keep confidential. Division staff may accordingly redact confidential information from applications or rulings prior to public inspection or dissemination.

**9.7(12) Voiding or cancellation.** A waiver or variance is voidable if material facts upon which the petition is based are not true or if material facts have been withheld. A waiver or variance issued by the division board may be withdrawn, canceled, or modified if, after appropriate notice and meeting, the division board issues a ruling finding any of the following:

a. That the petitioner or the applicant who was the subject of the waiver ruling withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. That the alternative search method assuring that the public interest will be adequately protected after issuance of the ruling has been demonstrated to be insufficient; or

c. That the subject of the waiver ruling has failed to comply with all conditions contained in the ruling.

**ARC 7113B**

## **PROFESSIONAL LICENSURE DIVISION[645]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry hereby gives Notice of Intended Action to rescind Chapter 179, "Administrative and Regulatory Authority for the Board of Optometry Examiners," to amend Chapter 180, "Licensure of Optometrists," Chapter 181, "Continuing Education for Optometrists," Chapter 182, "Practice of Optometrists," and Chapter 183, "Discipline for Optometrists," and to rescind Chapter 184, "Fees," Iowa Administrative Code.

The proposed amendments would update requirements for optometry licensure and continuing education and remove language that has been added to the common chapter for the Bureau of Professional Licensure.

Any interested person may make written comments on the proposed amendments no later than September 16, 2008, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [jmanning@idph.state.ia.us](mailto:jmanning@idph.state.ia.us).

A public hearing will be held on September 16, 2008, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154 and 272C.

The following amendments are proposed.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind and reserve **645—Chapter 179**.

ITEM 2. Strike the words “board of optometry examiners” wherever they appear in **645—Chapter 180** and insert the words “board of optometry” in lieu thereof.

ITEM 3. Rescind subrule 180.2(2) and adopt the following new subrule in lieu thereof:

**180.2(2)** An applicant for licensure to practice optometry in Iowa may only apply to become a therapeutically certified optometrist.

ITEM 4. Rescind and reserve rules **645—180.4(147)**, **645—180.8(147)**, **645—180.9(147)** and **645—180.10(17A,147,272C)**.

ITEM 5. Strike the words “board of optometry examiners” wherever they appear in **645—Chapter 181** and insert the words “board of optometry” in lieu thereof.

ITEM 6. Amend paragraph **181.2(1)“a”** as follows:

*a. Requirements for nontherapeutic licensees.* Each biennium, each person who is licensed to practice as an optometrist in this state and who is not therapeutically certified shall be required to complete a minimum of 30 hours of continuing education approved by the board. Nontherapeutic licensees must comply with Iowa continuing education rules for license renewal and ~~reinstatement~~ reactivation by meeting the continuing education requirements in the state of practice.

ITEM 7. Rescind subparagraph **181.3(2)“b”(5)**.

ITEM 8. Renumber subparagraph **181.3(2)“b”(6)** as **181.3(2)“b”(5)**.

ITEM 9. Rescind paragraph **181.3(2)“c”** and adopt the following new paragraph in lieu thereof:

*c. Required continuing education hours.* Beginning with the July 1, 2008, biennium, therapeutic licensees shall provide proof of continuing education in the following areas:

(1) Current certification in CPR by the American Heart Association, the American Red Cross or an equivalent organization. At least two hours per biennium is required but credit will be granted for four hours; and

(2) Proof of current CELMO certification. If the licensee does not have current proof of CELMO certification, then the following are required:

1. Twenty hours required from COPE Category B (Ocular Disease and Management) and 20 hours required from COPE Category C (Related Systemic Disease); and

2. Ten additional hours required from any of the COPE Categories of A (Clinical Optometry), B, C and D (Optometric Business Management). Hours obtained in Category D may not exceed 6 hours of the total continuing education hours’ requirement.

ITEM 10. Rescind and reserve rules **645—181.4(154,272C)** to **645—181.7(154,272C)**.

ITEM 11. Strike the words “board of optometry examiners” wherever they appear in **645—Chapter 182** and insert the words “board of optometry” in lieu thereof.

ITEM 12. Strike the words “board of optometry examiners” wherever they appear in **645—Chapter 183** and insert the words “board of optometry” in lieu thereof.

ITEM 13. Rescind and reserve rule **645—183.5(154)**.

ITEM 14. Rescind and reserve **645—Chapter 184**.

## ARC 7103B

**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care hereby gives Notice of Intended Action to rescind Chapter 260, "Administrative and Regulatory Authority for the Board of Respiratory Care," to amend Chapter 261, "Licensure of Respiratory Care Practitioners," Chapter 262, "Continuing Education For Respiratory Care Practitioners," and Chapter 263, "Discipline For Respiratory Care Practitioners," and to rescind Chapter 264, "Fees," Iowa Administrative Code.

These proposed amendments implement background checks for individuals who apply for initial respiratory care licensure and for individuals who apply to reactivate their Iowa respiratory care licenses. A provision is added that allows students to qualify for licensure in Iowa who have completed a program that is under Letter of Review by the Committee on Accreditation for Respiratory Care. The proposed amendments rescind duplicative language found in 645—Chapters 4 and 5 and clarify that continuing education obtained through real-time interactive media or through an audio or video presentation that permits the licensee to communicate with the presenter in real time counts toward the 14 hours of continuing education required to be obtained through direct contact.

Prior to filing the Notice of Intended Action, the Board notified Iowa respiratory care programs and individuals who have requested to be notified of proposed amendments to rules. The Board received one comment on the proposed amendments, which suggested that programs under Letter of Review by the Committee on Accreditation for Respiratory Care should be acceptable respiratory care education programs. The Board considered the public comment at the July 28, 2008, Board meeting and approved amending 645—subrule 261.3(1) in response.

Any interested person may make written comments on the proposed amendments no later than September 16, 2008, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [ebaird@idph.state.ia.us](mailto:ebaird@idph.state.ia.us).

A public hearing will be held on September 16, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 152B, and 272C.

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 260**.

ITEM 2. Amend subrule 261.2(1) as follows:

**261.2(1)** The following criteria shall apply to licensure:

*a.* and *b.* No change.

~~*e.* — Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Respiratory Care. The fees are nonrefundable.~~

~~*d.* — No application will be considered by the board until:~~

~~(1) — Rescinded IAB 6/8/05, effective 7/13/05.~~

~~(2) — The applicant satisfactorily completes the certification or registration examination for respiratory therapists administered by the National Board for Respiratory Care.~~

~~*e.* — Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.~~

*c.* — Each application shall be accompanied by the appropriate fees specified in subrule 5.17(1).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. The applicant shall submit two completed sets of the fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of investigation (FBI) criminal history background checks shall be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

e. The applicant has satisfactorily completed the certification or registration examination for respiratory therapists administered by the NBRC.

f. Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

ITEM 3. Amend subrule 261.3(1) as follows:

**261.3(1)** The applicant shall have successfully completed a respiratory care education program ~~from an accredited school/program for training respiratory therapists~~ by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or by a program that is under Letter of Review by the Committee on Accreditation for Respiratory Care (CoARC) while actively pursuing CAAHEP accreditation.

ITEM 4. Amend rule 645—261.6(152B) as follows:

**645—261.6(152B) Licensure by endorsement.** An applicant who has been a licensed respiratory care practitioner under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. ~~Pays the licensure fee~~ Pays the licensure fee specified in rule 645—5.17(147,152B);
3. ~~Shows evidence of licensure requirements that are similar to those required in Iowa~~ Submits two completed sets of the fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks shall be assessed to the applicant;
4. ~~Rescinded IAB 6/8/05, effective 7/13/05. Shows evidence of licensure requirements that are similar to those required in Iowa;~~
5. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
6. Provides the examination scores:
  - Scores shall be sent directly from the examination service to the board of respiratory care; or
  - A notarized certificate shall be submitted showing proof of the successful completion of the examination for respiratory therapists or respiratory therapy technicians administered by the National Board for Respiratory Care; and
7. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
  - Licensee's name;
  - Date of initial licensure;
  - Current licensure status; and
  - Any disciplinary action taken against the license.

ITEM 5. Rescind and reserve rule **645—261.7(147).**

ITEM 6. Amend subrule 261.8(7) as follows:

**261.8(7)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in ~~645—subrule 261.1(3) rule 645—5.17(147,152B).~~ To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 7. Rescind and reserve rules **645—261.11(147)** to **645—261.13(17A,147,272C)**.

ITEM 8. Amend subrule 261.14(2) as follows:

**261.14(2)** Pay the reactivation fee ~~that is due as specified in 645—Chapter 264 rule 645—5.17(147,152B).~~

ITEM 9. Renumber subrule **261.14(3)** as **261.14(4)**.

ITEM 10. Adopt the following new subrule 261.14(3):

**261.14(3)** If the license has been inactive for two or more years, the licensee shall submit two completed sets of the fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks shall be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

ITEM 11. Amend subrule 262.2(1) as follows:

**262.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, ~~each person who is licensed to practice as a~~ the licensee in this state shall be required to complete a minimum of 24 hours of continuing education ~~approved by the board that meet the requirements specified in rule 645—262.3(152B,272C).~~ Fourteen of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class employing in-person or live, real-time interactive media or by employing an archived audio or video presentation which permits the licensee a means to communicate with the presenter in real time.

ITEM 12. Rescind and reserve rule **645—263.5(152B)**.

ITEM 13. Rescind and reserve **645—Chapter 264**.

**ARC 7087B**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 16, "Prelicense Education and Continuing Education," and Chapter 17, "Approval of Schools, Courses and Instructors," Iowa Administrative Code.

The rules in these chapters describe education, including the attendance requirements. These amendments are intended to clarify the original intent of the attendance policy.

A public hearing will be held on September 16, 2008, at 10 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer, Ankeny, Iowa, at which time persons may present their views on the proposed rules either orally or in writing. At the hearing, any person who wishes to speak will be asked to give his or her name and address for the record and to confine remarks to the subject of the proposed amendments.

Consideration will be given to all written suggestions or comments received before the end of the business day on September 16, 2008. Comments should be addressed to Toni Bright, Education Director, Iowa Real Estate Commission, 1920 SE Hulsizer, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to [toni.bright@iowa.gov](mailto:toni.bright@iowa.gov).

These amendments are intended to implement Iowa Code chapters 17A, 272C, and 543B.

The following amendments are proposed.

## REAL ESTATE COMMISSION[193E](cont'd)

ITEM 1. Amend rule 193E—16.7(543B) as follows:

**193E—16.7(543B) Full-time attendance.** Successful completion of continuing education requires full-time attendance throughout the program, course or activity. A student who arrives late, leaves during class or leaves early ~~may~~ shall not receive a certificate.

ITEM 2. Amend subrule 17.2(4) as follows:

**17.2(4)** An attendance certificate shall not be issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity must be completed in its entirety. A student who arrives late, leaves during class or leaves early ~~may~~ shall not receive an attendance certificate.

**ARC 7089B**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 17, "Approval of Schools, Courses and Instructors," Iowa Administrative Code.

The proposed amendment changes the standards for Commission approval of courses of instruction by changing the number of credit hours required to qualify for course approval from three to one.

A public hearing will be held on September 16, 2008, at 10 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer, Ankeny, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, any person who wishes to speak will be asked to give his or her name and address for the record and to confine remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received before the end of the business day on September 16, 2008. Comments should be addressed to Toni Bright, Education Director, Iowa Real Estate Commission, 1920 SE Hulsizer, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to [toni.bright@iowa.gov](mailto:toni.bright@iowa.gov).

This amendment is intended to implement Iowa Code chapter 543B.

The following amendment is proposed.

Amend subrule 17.7(3) as follows:

**17.7(3)** The course qualifies for at least ~~three~~ one credit ~~hours~~ hour.

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION,  
IOWA**

**Public Notice**

**NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT  
COMMENCING SEPTEMBER 1, 2008, AND ENDING AUGUST 31, 2009**

In accordance with Iowa Code subsection 8D.11(1)(c), the Iowa Telecommunications and Technology Commission (Iowa Communications Network) Executive Director hereby publishes the official adjusted

## TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA(cont'd)

contract limitation amount for the period commencing on September 1, 2008, and ending on August 31, 2009, of \$2,100,000.

The rate becomes effective on September 1, 2008. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 5.0% from June 2007 to June 2008.

Pursuant to Iowa Code section 8D.11(1)(c), this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice may be directed to:

John Gillispie, Executive Director  
Iowa Telecommunications and Technology Commission  
400 E. 14th Street  
Des Moines, Iowa 50319  
Telephone: (515)725-4707  
E-mail: [John.Gillispie@iowa.gov](mailto:John.Gillispie@iowa.gov)

## TRANSPORTATION DEPARTMENT

### Advisory Notice

#### Adjusted Bid Thresholds for City and County Highway, Bridge, and Culvert Construction, Reconstruction and Improvement Projects

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2009.

The horizontal infrastructure bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, held a meeting on July 23, 2008, to review bid thresholds. After a review of the construction price index, the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted to \$85,000 effective January 1, 2009.
2. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of 50,000 or less will be adjusted to \$45,000 effective January 1, 2009.
3. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of more than 50,000 will be adjusted to \$65,000 effective January 1, 2009.

All other bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects that are not addressed in this advisory notice will remain as currently stated in the appropriate Iowa Code sections.



## TRANSPORTATION DEPARTMENT(cont'd)

**TRANSPORTATION DEPARTMENT****Advisory Notice****Adjusted Competitive Quotation Thresholds for  
Vertical Infrastructure Public Improvements**

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted competitive quotation thresholds for vertical infrastructure public improvements. The adjusted competitive quotation threshold values will become effective January 1, 2009.

The vertical infrastructure bid threshold subcommittee, composed of three contractors, three representatives of public entities and the Director's designee, held a meeting on August 7, 2008, to review competitive quotation thresholds. The vertical infrastructure bid threshold subcommittee made the following adjustments to the competitive quotation thresholds listed in Iowa Code section 26.14:

1. The competitive quotation threshold for counties, including county hospitals, will be adjusted to \$85,000 effective January 1, 2009.
2. The competitive quotation threshold for cities having a population of 50,000 or more will be adjusted to \$65,000 effective January 1, 2009.
3. The competitive quotation threshold for school districts having a population of 50,000 or more will be adjusted to \$65,000 effective January 1, 2009.
4. The competitive quotation threshold for aviation authorities created within cities having a population of 50,000 or more will be adjusted to \$65,000 effective January 1, 2009.
5. The competitive quotation threshold for cities having a population of less than 50,000, for school districts having a population of less than 50,000, and for other governmental entities will be adjusted to \$45,000 effective January 1, 2009.

**TREASURER OF STATE****Notice—Public Funds Interest Rates**

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for August is 6.00%.

**INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS**

74A.2 Unpaid Warrants .....	Maximum 6.0%
74A.4 Special Assessments .....	Maximum 9.0%

**RECOMMENDED** Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective August 12, 2008, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

## TREASURER OF STATE(cont'd)

## TIME DEPOSITS

7-31 days .....	Minimum 1.20%
32-89 days .....	Minimum 1.50%
90-179 days .....	Minimum 1.65%
180-364 days .....	Minimum 1.90%
One year to 397 days .....	Minimum 2.20%
More than 397 days .....	Minimum 2.45%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

August 1, 2007 — August 31, 2007	7.00%
September 1, 2007 — September 30, 2007	7.00%
October 1, 2007 — October 31, 2007	6.75%
November 1, 2007 — November 30, 2007	6.50%
December 1, 2007 — December 31, 2007	6.50%
January 1, 2008 — January 31, 2008	6.25%
February 1, 2008 — February 29, 2008	6.00%
March 1, 2008 — March 31, 2008	5.75%
April 1, 2008 — April 30, 2008	5.75%
May 1, 2008 — May 31, 2008	5.50%
June 1, 2008 — June 30, 2008	5.75%
July 1, 2008 — July 31, 2008	6.00%
August 1, 2008 — August 31, 2008	6.00%

ARC 7095B

**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby adopts new Chapter 16, "Washington, D.C., Internship Grant," Iowa Administrative Code.

The purpose of these rules is to implement the Washington, D.C., Internship Grant as enacted by 2008 Iowa Acts, House File 2679.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary. Emergency adoption of these rules will ensure that all action taken by the Commission is in compliance with federal law and regulations.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing, as this will confer a benefit on the public by allowing the rules to become effective prior to the beginning of the 2008-09 academic year.

These rules are also published herein under Notice of Intended Action as **ARC 7096B** to allow for public comment.

The Commission adopted these rules on July 29, 2008.

These rules became effective on August 1, 2008.

These rules are intended to implement Iowa Code chapter 261 and 2008 Iowa Acts, House File 2679.

The following amendment is adopted.

Adopt the following **new 283—Chapter 16**:

## CHAPTER 16

## WASHINGTON, D.C., INTERNSHIP GRANT

**283—16.1(82GA, HF2679) Washington, D.C., internship grant.**

**16.1(1)** The Washington, D.C., internship grant is a state-supported and state-administered grant to a national nonprofit organization to be used to assist Iowa students in financing the costs of internship programs in Washington, D.C.

**16.1(2)** Definitions. As used in this chapter:

*"Internship"* means a placement in Washington, D.C., for which the recipient receives college credit that is directly applied to the recipient's transcript at the Iowa college or university in which the recipient is enrolled.

*"National nonprofit organization"* or *"organization"* means the Washington Center for Internships and Academic Seminars located at 1333 16th Street N.W., Washington, D.C. 20036-2205.

**283—16.2(82GA, HF2679) Awarding of grant.**

**16.2(1)** At the beginning of each fiscal year, the college student aid commission shall enter into a statewide affiliation agreement with, and award funding to, the national nonprofit organization as provided by 2008 Iowa Acts, House File 2679. All Iowa students shall be given an equal opportunity to apply for funding under the internship program.

**16.2(2)** Restrictions. The following restrictions on the funding apply:

- a. One hundred percent of the funding must go directly to students in the form of academic scholarships.
- b. All awards must be reported to the college student aid commission by June 30 for each fiscal year in which funding is distributed. Information must be reported in a format prescribed by the commission, and information about each recipient shall, at a minimum, include:
  - (1) Student-specific information including name and address;
  - (2) Iowa college or university at which the student is enrolled;
  - (3) Amount of award provided to the student; and
  - (4) Name of the organization to which the student is assigned.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

c. Up to 50 percent of the funding shall be dedicated to students participating in the two-to-one federal and state matching agricultural biofuels from biomass internship pilot program if the program is funded by the U.S. Congress.

**283—16.3(82GA,HF2679) Student eligibility.**

**16.3(1)** Applicants must:

- a. Be residents of the state of Iowa;
- b. Be enrolled in Iowa-accredited higher education institutions, as defined in Iowa Code section 261.92, subsection 1; and
- c. Complete and file the Free Application for Federal Student Aid (FAFSA).

**16.3(2)** Applicants must complete and file annual applications for the internship program by the deadline established by the national nonprofit organization. If funds remain available after the application deadline, the organization will continue to accept applications. To ensure equal access to the application process, the application and information about the grant will be provided on the commission's Web site.

**16.3(3)** Applicants must begin their first internship positions in Washington, D.C., on or after July 1, 2008.

**283—16.4(82GA,HF2679) Awarding of funds.**

**16.4(1)** *Selection criteria.* All applications received on or before the published deadline will be considered for funding. In the event that all applications for the program cannot be funded with the available appropriations, criteria for selection of recipients will be prioritized under standards established by the national nonprofit organization.

**16.4(2)** *Award amount.* The maximum annual award to an eligible intern shall be \$2,000.

**16.4(3)** *Extent of assistance.* Recipients may receive grant assistance for no more than one semester.

**16.4(4)** *Disbursement of funds.* The national nonprofit organization will disburse funds to recipients in accordance with the established payment schedule developed by the organization.

**283—16.5(82GA,HF2679) Restrictions.** An applicant who is in default on a Federal Stafford Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for internship benefits. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

These rules are intended to implement 2008 Iowa Acts, House File 2679.

[Filed Emergency 8/1/08, effective 8/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

**ARC 7097B**

**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby adopts new Chapter 17, "Barber and Cosmetology Arts and Sciences Tuition Grant Program," Iowa Administrative Code.

The purpose of these rules is to implement the Barber and Cosmetology Arts and Sciences Tuition Grant Program as enacted by 2008 Iowa Acts, House File 2679, section 32.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary. Emergency adoption of these rules will ensure that all action taken by the Commission is in compliance with federal law and regulations.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

The Commission also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing, as this will confer a benefit on the public by allowing the rules to become effective prior to the beginning of the 2008-09 academic year.

These rules are also published herein under Notice of Intended Action as **ARC 7098B** to allow for public comment.

The Commission adopted these rules on July 29, 2008.

These rules became effective on August 1, 2008.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 32.

The following amendment is adopted.

Adopt the following new 283—**Chapter 17**:

## CHAPTER 17

## BARBER AND COSMETOLOGY ARTS AND SCIENCES TUITION GRANT PROGRAM

**283—17.1(261) Tuition grant based on financial need to Iowa residents enrolled in barber and cosmetology arts and sciences programs at colleges in the state.****17.1(1) Financial need.**

a. Financial need is defined as the lesser of the difference between the average expenses for tuition, fees, and books and supplies, as determined by the commission, and the amount of the federal Pell Grant for which the student qualifies or the difference between the average total budget at a college, as determined by the commission, and the expected family contribution.

b. Financial need shall be evaluated annually on the basis of a confidential financial statement filed on a form designated by the commission. For the purposes of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need. The FAFSA must be received by the processing agent by the priority date specified in the application instructions.

**17.1(2) Student eligibility.**

a. A recipient must be an Iowa resident as defined by the Iowa department of education's "Iowa community college uniform policy on student residency status."

b. A recipient must be enrolled for at least three semester hours, or the trimester or quarter equivalent, in a barber or cosmetology arts and sciences program at an eligible Iowa college.

c. A full-time recipient may receive an award under this program for not more than four semesters or the trimester or quarter equivalent of two full years of study. A part-time recipient may receive an award under this program for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study.

d. A full-time recipient may receive no more than the amount specified by Iowa law or the amount of the student's established financial need, whichever is less. A part-time recipient's award shall be a prorated portion of the full-time award. The proration will be established by the commission in a manner consistent with federal Pell Grant Program proration. Part-time recipients taking from 3 to 5 credit hours will receive awards equal to one-fourth of the full-time award; recipients taking from 6 to 8 credit hours will receive awards equal to one-half of the full-time award; and recipients taking from 9 to 11 credit hours will receive awards equal to three-fourths of the full-time award.

**17.1(3) Priority for grants.** Applicants who apply by the priority date specified in the application are ranked in order of the estimated amount of the family's contribution toward college expenses and awards are granted to those who demonstrate need, as defined by the commission. In the event that all on-time applicants for the program cannot be funded with the available appropriation, priority will be given to full-time students enrolled in their first term of instruction at an eligible institution.

**17.1(4) Award notification.** A grant recipient is notified of the award by the college to which application is made. The college is responsible for completing necessary verification and for coordinating other aid to

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

ensure compliance with student eligibility requirements and allowable award amounts. The college reports changes in student eligibility to the commission.

**17.1(5) *Full year of study.*** For purposes of this program, the commission has defined “full year of study” as either four quarters or two semesters. Grant payments are prorated according to this definition.

**17.1(6) *Award transfers and adjustments.*** Recipients are responsible for promptly notifying the appropriate college of any change in enrollment or financial situation. The college will make necessary changes and notify the commission.

**17.1(7) *Restrictions.*** A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa vocational-technical tuition grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapters 4 and 5.

**283—17.2(261) Tuition grant institutional eligibility requirements.**

**17.2(1) *Institutional eligibility.*** An Iowa college or university requesting participation in the barber and cosmetology arts and sciences tuition grant program must apply to the college student aid commission using the commission’s designated application. A college participating in the barber and cosmetology arts and sciences tuition grant program must:

- a. Be a barber school licensed under Iowa Code section 158.7; or
- b. Be a school of cosmetology arts and sciences licensed under Iowa Code chapter 157; and
- c. Be accredited by a national accrediting agency recognized by the United States Department of Education; and
- d. Be located in Iowa. “Located in Iowa” means a college or university accredited by a national accrediting agency that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services; and
- e. Meet the criteria in Iowa Code section 261.9, subsection 1, paragraphs “d” through “g”;
- f. Submit an annual report which includes student and faculty information, enrollment and employment information, and other information required by the commission as described in Iowa Code sections 261.9 through 261.16; and
- g. Report to the commission any information requested in the time frame required by the commission.

**17.2(2) *Processing college applications.*** Application forms will be provided by the commission.

a. Applicant colleges are required to provide a completed application and to provide the commission with any additional documentation establishing eligibility.

b. Colleges seeking to participate in the barber and cosmetology arts and sciences tuition grant program must submit applications by January 1 of the year prior to the beginning of the academic year for which they are applying for participation.

**17.2(3) *Notice of change of status.*** Any college that loses accreditation must immediately notify the commission. Failure to comply with this notice of change requirement may result in the college being required to return tuition grant funds to the commission.

**17.2(4) *Review of eligibility.***

a. The commission shall periodically, at least every three years, investigate and review compliance of institutions participating in the tuition grant program according to criteria described in the Iowa Code and this rule.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

b. If the commission finds that a college fails to comply with the provisions of the Iowa Code and this rule, participation in the tuition grant program shall be suspended.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 32.

[Filed Emergency 8/1/08, effective 8/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

**ARC 7100B**

**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby adopts new Chapter 33, "Chiropractic Loan Forgiveness Program," Iowa Administrative Code.

The purpose of these rules is to implement the Chiropractic Loan Forgiveness Program as enacted by 2008 Iowa Acts, House File 2679, section 34.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary. Emergency adoption of these rules will ensure that all action taken by the Commission is in compliance with state law and regulations.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing, as this will confer a benefit on the public by allowing the rules to become effective prior to the beginning of the 2008-09 academic year.

These rules are also published herein under Notice of Intended Action as **ARC 7102B** to allow for public comment.

The Commission adopted these rules on July 29, 2008.

These rules became effective on August 1, 2008.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 34.

The following amendment is adopted.

Adopt the following new 283—Chapter 33:

**CHAPTER 33****CHIROPRACTIC LOAN FORGIVENESS PROGRAM****283—33.1(261) Chiropractic loan forgiveness program.**

**33.1(1)** The chiropractic loan forgiveness program is a state-supported and state-administered loan forgiveness program for Iowans who are chiropractors practicing in Iowa.

**33.1(2)** Definition. As used in this chapter, "Chiropractic practice" means working as a licensed chiropractor in the state of Iowa as certified by the state board of chiropractic under Iowa Code chapter 151.

**283—33.2(261) Eligibility.**

**33.2(1)** Applicants must be:

- a. Residents of the state of Iowa; and
- b. Employed in chiropractic practice in Iowa.

**33.2(2)** Applicants must complete and file annual applications for the chiropractic loan forgiveness program by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications.

**33.2(3)** Applicants must annually complete and return to the commission affidavits of practice verifying that they are employed as licensed chiropractors in Iowa.

**33.2(4)** Applicants must begin their first licensed chiropractic positions in Iowa on or after July 1, 2008.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

**283—33.3(261) Awarding of funds.**

**33.3(1) Selection criteria.** All applications received on or before the published deadline will be considered for funding. In the event that all applications for the program cannot be funded with the available appropriations, criteria for selection of recipients will be prioritized as follows.

- a.* Applicant renewal status:
  - (1) Date of application;
  - (2) Applicant debt level;
- b.* Full-time employment status:
  - (1) Date of application;
  - (2) Applicant debt level;
- c.* Part-time employment status:
  - (1) Date of application;
  - (2) Applicant debt level.

**33.3(2) Annual award.** The maximum annual award to an eligible chiropractor shall be the lesser of:

- a.* The average resident tuition rate established for students attending universities governed by the Iowa board of regents for the first year following the chiropractor's graduation from a college of chiropractic approved by the board of chiropractic in accordance with Iowa Code section 151.4; or

- b.* Twenty percent of the chiropractor's total federally guaranteed Stafford loan balance, including principal and interest, under the Federal Family Education Loan Program (FFELP) or the Federal Direct Loan Program (FDLP). Eligible loans include subsidized and unsubsidized Stafford loans and consolidated loans. Only the outstanding portion of a Federal Consolidation Loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, an eligible Direct Subsidized Loan, or an eligible Direct Unsubsidized Loan qualifies for loan forgiveness.

**33.3(3) Extent of forgiveness.** Recipients may receive loan forgiveness for no more than five consecutive years. Recipients who fail to complete five consecutive years as chiropractors in Iowa will not be considered for subsequent years of forgiveness.

**33.3(4) Disbursement of loan forgiveness funds.**

- a.* Loan payments will be disbursed upon completion of the year for which forgiveness was approved and upon certification from the employer or by submission of an affidavit of practice that the chiropractor was employed during the entire year and completed the year in good standing.

- b.* Loan proceeds will be distributed to the recipient's student loan holder and applied directly to eligible loans. Unless otherwise instructed by the recipient, the holder will be instructed to apply the proceeds of the loan forgiveness program first to any outstanding unsubsidized Stafford loan balances, next to any outstanding subsidized Stafford loan balances, then to any eligible outstanding consolidation loan balances.

**283—33.4(261) Loan forgiveness cancellation.**

**33.4(1)** Within 30 days following termination of employment as a chiropractor in Iowa, the recipient shall notify the commission of the nature of the chiropractor's employment status.

**33.4(2)** The chiropractor is responsible for notifying the commission immediately of a change in name, place of employment, home address, or lender.

**283—33.5(261) Restrictions.** A chiropractor who is in default on a Federal Stafford Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan forgiveness benefits. Eligibility for state aid may be reinstated upon



## COLLEGE STUDENT AID COMMISSION[283](cont'd)

payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 34.

[Filed Emergency 8/1/08, effective 8/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

**ARC 7085B**

## **HISTORICAL DIVISION[223]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 303.1A, the Director of the Department of Cultural Affairs hereby amends Chapter 50, "Historic Site Preservation Grant Program," Iowa Administrative Code.

The amendments to Chapter 50 put in place an emergency grant program for disaster relief.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary as the amendments remove restrictions and confer a benefit to constituents.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on July 25, 2008, as they confer a benefit on and remove restrictions from constituents interested in applying for grant funds to provide emergency disaster relief.

The Department adopted these amendments on July 24, 2008.

These amendments are also published herein under Notice of Intended Action as **ARC 7084B** to allow for public comment.

These amendments became effective on July 25, 2008.

These amendments are intended to implement Iowa Code chapter 303.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition in rule **223—50.2(303)**:

"*Emergency*" means a threat to a historical resource that is not the result of delinquency by the current owner and that requires timely action to prevent immediate loss of the resource.

ITEM 2. Adopt the following **new** rule 223—50.8(303):

### **223—50.8(303) Emergency grants.**

#### **50.8(1) Eligible applicants.**

*a.* Emergency grants may be awarded to any local political subdivision of the state, state agency, Indian tribe, individual or nonprofit organization that is duly authorized and charged with responsibilities for construction, maintenance and operation of historical sites, or to the owner of a historical site as defined in rule 50.2(303).

*b.* Emergency grants may be awarded for projects arising in counties for which a gubernatorial disaster emergency proclamation has been issued for natural disasters arising during the period of April 1, 2008, through June 30, 2008.

**50.8(2) Eligible projects.** Emergency grants may be awarded to projects for emergency stabilization of historical sites. All emergency grant projects shall meet the U.S. Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.

**50.8(3) Grant amount.** Any application requesting less than \$1,000 in grant funds or more than \$50,000 in grant funds shall not be considered.

**50.8(4) Application deadline.** Applications (one original and four copies) will be received on a continuous basis and will be reviewed monthly.

**50.8(5) Review panel.** A review and selection panel, hereinafter referred to as the review panel, comprised of four members appointed by the administrator, shall review and evaluate emergency project applications

HISTORICAL DIVISION[223](cont'd)

and shall develop funding recommendations to be forwarded to the administrator of the historical division for approval.

**50.8(6) Application rating system.** The review panel shall apply a numerical rating system to each grant application that is considered for funding assistance. The criteria shall include all of the following:

- a. The emergency status of the project as evaluated against the definition of emergency in rule 50.2(303) and eligibility criteria identified in subrule 50.8(1);
- b. The historical or cultural significance of the project and the degree to which the project is of regional, state, or national significance;
- c. The quality of the plans to stabilize the historical resource;
- d. The degree to which the budget is reasonable and appropriate for the project; and
- e. The degree to which the applicant demonstrates a commitment to the future viability of the resource by planning for the ongoing operation and maintenance of the project following stabilization.

[Filed Emergency 7/25/08, effective 7/25/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

**ARC 7099B**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 7C.12, the Executive Director of the Iowa Finance Authority, as the Governor's designee pursuant to section 7C.12 of the Iowa Code, hereby amends Chapter 8, “Private Activity Bond Allocation,” Iowa Administrative Code.

The purpose of this amendment is to implement recently enacted federal legislation, the Housing and Economic Recovery Act of 2008, H.R. 3221, by adopting new rule 265—8.11(7C).

The Executive Director does not intend to grant waivers under the provisions of this rule, other than as may be allowed under the Authority's general rules concerning waivers.

Pursuant to Iowa Code section 17A.4(2), the Executive Director finds that notice and public participation are impracticable and contrary to the public interest in that the Housing and Economic Recovery Act of 2008, H.R. 3221, took effect upon enactment on July 30, 2008, and the normal notice and public participation process would delay implementation of the new rule, potentially leading to confusion. Notice of Intended Action for this amendment is published herein as **ARC 7101B** to allow for public comment.

The Executive Director finds that this amendment confers a benefit on the public by avoiding confusion, easing and speeding the administration of an important program, and allowing the rapid implementation of the benefits of the Housing and Economic Recovery Act of 2008, H.R. 3221, in Iowa, and should be implemented as soon as feasible. Therefore this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

The Executive Director adopted this amendment on July 31, 2008.

This amendment is intended to implement Iowa Code section 7C.12 and the Housing and Economic Recovery Act of 2008, H.R. 3221.

This amendment became effective on August 1, 2008.

The following amendment is adopted.

Adopt the following new rule 265—8.11(7C):

**265—8.11(7C) Supplemental cap allocation for 2008.** The supplemental state ceiling received by the state of Iowa in calendar year 2008 for housing purposes as a result of federal legislation known as the Housing and Economic Recovery Act of 2008 shall be allocated by the governor's designee to the Iowa finance authority

IOWA FINANCE AUTHORITY[265](cont'd)

for such single-family and multifamily uses as the authority deems necessary and appropriate to ensure full and efficient use of the supplemental state ceiling.

This rule is intended to implement Iowa Code section 7C.12 and the Housing and Economic Recovery Act of 2008, H.R. 3221.

[Filed Emergency 8/1/08, effective 8/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

## ARC 7106B

## DENTAL BOARD[650]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Iowa Dental Board hereby amends Chapter 35, "Iowa Practitioner Review Committee," Iowa Administrative Code.

The amendment specifies that the Iowa Practitioner Review Committee shall elect a chairperson and vice chairperson annually. In addition, the amendment specifies that committee members are appointed for three-year terms and may serve a maximum of three terms.

This amendment is subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6803B**. A public hearing on the amendment was held on June 10, 2008. No oral or written comments were received. This amendment is identical to that published under Notice.

This amendment was approved at the July 16, 2008, regular meeting of the Iowa Dental Board.

This amendment is intended to implement Iowa Code section 272C.3(1)"k."

This amendment will become effective on October 1, 2008.

The following amendment is adopted.

Amend subrule **35.1(3)**, introductory paragraph, as follows:

**35.1(3) *Composition of the committee.*** The chairperson of the board shall appoint the members of the IPRC. Committee members, except the executive director, shall be appointed for three-year terms, for a maximum of three terms. The committee shall elect a chairperson and vice chairperson at the last meeting of each calendar year to begin serving a one-year term on January 1. The membership of the IPRC may include, but is not limited to:

[Filed 8/7/08, effective 10/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

## ARC 7094B

## EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 56, "Iowa Vocational Rehabilitation Services," Iowa Administrative Code.

2008 Iowa Acts, Senate File 2101, transfers administration of the Entrepreneurs with Disabilities program from the Iowa Finance Authority (IFA) to the Division of Vocational Rehabilitation Services and directs the adoption of rules therefor. The amendments do the following:

- Transfer the IFA rules (265—Chapter 25) regarding administration of the Entrepreneurs with Disabilities program to 281—Chapter 56.

- Limit assistance to qualified persons whose business is in this state in recognition of the legislative intent that state funding for this program be used to expand economic development in the State of Iowa, not in neighboring states.

- Eliminate the First Step program because all small business actions are now part of the Entrepreneurs with Disabilities program.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the June 18, 2008, Iowa Administrative Bulletin as **ARC 6836B**. Public comments were allowed until 4:30 p.m. on July 8, 2008. No written or oral comments were received.

These amendments are identical to those published under Notice.

EDUCATION DEPARTMENT[281](cont'd)

These amendments are intended to implement 2008 Iowa Acts, Senate File 2101.  
These amendments shall become effective October 1, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [56.20, 56.37 to 56.41] is being omitted. These amendments are identical to those published under Notice as **ARC 6836B**, IAB 6/18/08.

[Filed 8/1/08, effective 10/1/08]

[Published 8/27/08]

[For replacement pages for IAC, see IAC Supplement 8/27/08.]

**ARC 7105B****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 505.8, 508.36 and 508.37, the Iowa Insurance Division hereby adopts new Chapter 95, "Determining Reserve Liabilities for Preneed Life Insurance," Iowa Administrative Code.

The rules in Chapter 95 designate the 1980 Commissioner Standard Ordinary (CSO) Mortality Table as the authority used to establish minimum reserves for preneed insurance. Iowa Code section 508.36 authorizes the Insurance Commissioner to adopt any mortality table adopted by the National Association of Insurance Commissioners. The National Association of Insurance Commissioners adopted the 1980 CSO Life Valuation Mortality Table for preneed life insurance products at its March 31, 2008, national meeting. All insurers selling preneed insurance policies are required to file policy forms with the 1980 CSO as the minimum standard by January 1, 2012.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6888B**. Comments regarding this new chapter were to be received during the comment period and at the public hearing on July 22, 2008. The Division received no comments on the Notice of Intended Action.

Since publication of the Notice, the effective date of new Chapter 95 has been added to paragraph 95.8(2)"b."

The new chapter will become effective January 1, 2009, and insurance producers and insurance companies operating in Iowa must comply with these rules beginning January 1, 2009.

This chapter does not provide for waivers.

These rules will become effective January 1, 2009.

These rules are intended to implement Iowa Code sections 508.36 and 508.37.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 95] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 6888B**, IAB 7/2/08.

[Filed 8/7/08, effective 1/1/09]

[Published 8/27/08]

[For replacement pages for IAC, see IAC Supplement 8/27/08.]

**ARC 7114B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3(1)"b," Iowa Code Supplement section 16.5(1)"r," and 2008 Iowa Acts, Senate File 2354, the Iowa Finance Authority hereby rescinds Chapter 27, "Military

IOWA FINANCE AUTHORITY[265](cont'd)

Service Member Home Ownership Assistance Program,” Iowa Administrative Code, and adopts a new Chapter 27 with the same title.

The purpose of this new chapter is to implement 2008 Iowa Acts, Senate File 2354.

These rules were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 6913B** on July 2, 2008, and became effective on July 1, 2008. The Authority simultaneously published these rules under Notice of Intended Action as **ARC 6915B**.

The Authority received no public comment on these rules.

The Iowa Finance Authority adopted these rules on August 6, 2008.

These rules will become effective on October 1, 2008, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement Iowa Code section 17A.3(1)“b,” Iowa Code Supplement section 16.5(1)“r,” and 2008 Iowa Acts, Senate File 2354.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 27] is being omitted. These rules are identical to those published under Notice as **ARC 6915B** and Adopted and Filed Emergency as **ARC 6913B**, IAB 7/2/08.

[Filed 8/8/08, effective 10/1/08]

[Published 8/27/08]

[For replacement pages for IAC, see IAC Supplement 8/27/08.]

## **ARC 7112B**

### **IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees’ Retirement System (IPERS) hereby amends Chapter 6, “Covered Wages,” Chapter 14, “Death Benefits and Beneficiaries,” and Chapter 16, “Qualified Domestic Relations Orders and Other Assignments,” Iowa Administrative Code.

These amendments help IPERS better conform to IRS plan qualification requirements; help IPERS administer the new beneficiary revocation law at Iowa Code Supplement section 598.20B with minimum burden and expense; and clarify IPERS’ procedures for naming of successor alternate payees and the paying of death benefits to beneficiaries of divorced members.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6917B**. A public hearing was held on July 22, 2008. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

There are no waiver provisions included in the amendments.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

These amendments will become effective October 1, 2008.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 6, 14, 16] is being omitted. These amendments are identical to those published under Notice as **ARC 6917B**, IAB 7/2/08.

[Filed 8/8/08, effective 10/1/08]

[Published 8/27/08]

[For replacement pages for IAC, see IAC Supplement 8/27/08.]

## ARC 7108B

## PUBLIC SAFETY DEPARTMENT[661]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 100.18, the Iowa Department of Public Safety hereby amends Chapter 5, "Fire Marshal Administration," and Chapter 210, "Smoke Detectors," Iowa Administrative Code.

Iowa Code section 100.18 charges the State Fire Marshal with establishing requirements for smoke detectors in residential buildings. These requirements have been in effect since 1981. Smoke detectors are an effective method of preventing fatalities resulting from residential fires. Technological developments have improved the effectiveness of these devices, and these developments continue to be monitored by the State Fire Marshal, with the intent of incorporating future improvements in smoke detector technology into the requirements for these devices in the future.

The amendments adopted herein amend Chapter 210, which sets out requirements for smoke detectors, to require the use of dual sensor smoke detectors. Also included is a provision to rescind rules 661—5.807(100) to 661—5.810(100) regarding smoke detectors. This rescission was inadvertently omitted when Chapter 210 was originally adopted in 2006.

These amendments were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on March 26, 2008, as **ARC 6661B**. A public hearing on these amendments was held on April 23, 2008. No comments were received at the public hearing, although various comments in support of the amendments were received from representatives of the fire service in Iowa. Minor editorial changes have been made to the proposed amendments. Language has been added clarifying that smoke detectors installed in addition to those required may be of other than dual sensor design.

These amendments are intended to implement Iowa Code section 100.18.

These amendments will become effective on October 1, 2008.

The following amendments are adopted.

ITEM 1. Rescind and reserve rules **661—5.807(100)** to **661—5.810(100)**.

ITEM 2. Amend rule 661—210.1(100) as follows:

**661—210.1(100) Definition Definitions.** The following ~~definition applies~~ definitions apply to rules 661—210.1(100) through 661—210.4(100):

~~"Approved" means acceptable to the state fire marshal. Any that the equipment, device or procedure which bears the stamp of approval or meets applicable standards prescribed has been approved for a specific use by an independent testing laboratory or organization of national reputation such as the Underwriters Laboratories, Inc., National Bureau of Standards, Factory Mutual Laboratories, American Society for National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in this chapter, shall be deemed acceptable to the state fire marshal.~~

"Dual sensor smoke detector" means a smoke detector which contains both an ionization sensor and a photoelectric sensor and which is designed to detect and trigger an alarm in response to smoke detected through either sensing device.

ITEM 3. Amend subrule 210.2(1) as follows:

**210.2(1)** Approved single station smoke detectors shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205. Any single station smoke detector installed on or after October 1, 2008, in compliance with this subrule, including a replacement of an existing detector, shall be a dual sensor smoke detector. If sufficient dual sensor smoke detectors have been installed to comply with the requirements of this chapter, additional smoke detectors which may be other than dual sensor detectors may be installed.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 4. Amend subrule 210.2(3) as follows:

**210.2(3)** All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended. Any smoke detector installed on or after October 1, 2008, in compliance with this chapter, including a replacement of an existing detector, shall be a dual sensor smoke detector. If sufficient dual sensor smoke detectors have been installed to comply with the requirements of this chapter, additional smoke detectors which may be other than dual sensor detectors may be installed.

[Filed 8/7/08, effective 10/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

**ARC 7111B**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 100C.7, the State Fire Marshal hereby adopts new Chapter 277, "Certification of Alarm System Contractors and Installers," Iowa Administrative Code.

The Iowa General Assembly enacted statutory language in 2007 Iowa Acts, chapter 197, which authorizes and requires the State Fire Marshal to establish a certification program for alarm system contractors and installers. The existing Fire Extinguishing System Contractors Advisory Board was charged with advising the State Fire Marshal on the development of the alarm system certification program. Additional members were added to the Advisory Board, bringing its voting membership to 11 and its total membership to 13, and the Board was renamed the Fire Extinguishing System Contractors and Alarm Systems Advisory Board.

The rules adopted herein were recommended to the State Fire Marshal by the Advisory Board. The rules establish categories of certification, indicated by endorsements on the certificates issued. The endorsements represent variations in the level of work authorized and specify the types of alarm systems on which certificate holders are authorized to work. The rules also provide for administrative procedures for the program, definitions of terms used in the rules, criteria for responsible managing employees of certified alarm system contractors, certification requirements for contractors, contractor application procedures and fees, installer certification requirements, installer application processes and fees, complaints and discipline against certificate holders, and civil penalties.

The rules adopted herein were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on March 26, 2008, as **ARC 6667B**. Public hearings on the proposed rules were held on April 17, 2008, and April 23, 2008, and numerous comments were received. Some comments were received which requested exempting classes of alarm system contractors and installers from certification requirements. The State Fire Marshal believes such exemptions exceed the authority afforded by statute. Many comments were received which recommended specific improvements to the proposed rules, and many of these suggestions have been incorporated in the adopted rules.

Significant changes made to the proposed rules are summarized as follows:

- Definitions were revised to make them consistent with amendments to Iowa Code Supplement chapter 100C that were adopted during the 2008 session of the Iowa General Assembly.
- A provision was added requiring that applicants for certification undergo national criminal history checks, also as provided in legislation enacted during the 2008 General Assembly.
- A provision was added to allow a contractor who applies for an amended certificate because the business was relocated due to emergency conditions in an area subject to a disaster emergency proclamation to receive the amended certificate at no cost. Amended certificates generally require payment of a \$100 fee.

These rules are intended to implement Iowa Code Supplement chapter 100C as amended by 2008 Iowa Acts, House File 2547.

These rules will become effective on October 1, 2008.

The following amendment is adopted.



PUBLIC SAFETY DEPARTMENT[661](cont'd)

Adopt the following **new** 661—Chapter 277:

CHAPTER 277  
CERTIFICATION OF ALARM SYSTEM CONTRACTORS AND INSTALLERS

**661—277.1(100C) Establishment of program.** There is established within the fire marshal division an alarm system contractor and installer certification program. The program is established pursuant to Iowa Code Supplement chapter 100C.

**277.1(1) Certification required.**

a. Except as provided in paragraph 277.1(1) “b,” no person shall act as an alarm system contractor without being currently certified as an alarm system contractor by the fire marshal. Except as provided in paragraph 277.1(1) “b,” no person shall act as an alarm system installer without being currently certified by the fire marshal as an alarm system contractor or alarm system installer unless the person is engaged in the installation of alarm system components, is currently licensed pursuant to Iowa Code Supplement chapter 103, and is exempt from requirements for certification by the fire marshal as an alarm system installer pursuant to Iowa Code Supplement chapter 103.

EXCEPTION: A person may pull cable for an alarm system under the direct supervision of a certified contractor, certified installer, or person licensed pursuant to Iowa Code Supplement chapter 103 who is working as an installer without certification pursuant to Iowa Code Supplement chapter 103.

b. On or after October 1, 2008, and before January 1, 2009, a person may operate as a contractor or installer subject to this chapter without being currently certified under this chapter only if the contractor or installer has applied for certification under this chapter. A contractor or installer operating under this paragraph may perform work only within the scope of certification for which the contractor or installer has applied.

**277.1(2) Endorsement.**

a. The certification of each contractor or installer shall carry an endorsement for one or more of the following:

- (1) Alarm system contractor.
  1. Fire alarm system contractor (1a).
  2. Nurse call system contractor (1b).
  3. Security alarm system contractor (1c).
  4. Alarm system maintenance inspection contractor (1d).
  5. Dwelling unit alarm system contractor (1e).
- (2) Alarm system installer.
  1. Fire alarm system installer (2a).
  2. Nurse call system installer (2b).
  3. Security alarm system installer (2c).
  4. Alarm system component installer (2d).
  5. Alarm system maintenance inspection installer (2e).
  6. Dwelling unit alarm system installer (2f).
  7. Alarm system installer assistant (2g).

b. Any person acting as an alarm system contractor or installer, other than a person who is not required to be certified for such work by the fire marshal, shall do so only in relation to systems covered by the endorsements on the contractor’s or installer’s certification.

**277.1(3) Length of certification.** Certification shall normally be for three years and shall expire on September 30 of the third year after the certification has been issued. A certification which is effective on a date other than October 1 shall be effective on the date on which the certification is issued and shall expire on the next September 30, after two years have passed from the date on which the certification was issued.

**277.1(4) Inquiries.** Inquiries regarding the alarm system contractor and installer certification program may be addressed to:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Alarm System Contractor and Installer Certification Program

Fire Marshal Division

Iowa Department of Public Safety

215 East 7th Street

Des Moines, Iowa 50319

Inquiries may be addressed by electronic mail to [alarminfo@dps.state.ia.us](mailto:alarminfo@dps.state.ia.us), or by telephone to (515)725-6145.

**661—277.2(100C) Definitions.** The following definitions apply to rules 661—277.1(100C) through 661—277.7(100C):

*“Alarm system”* means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a fire alarm, security alarm, or medical alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

*“Alarm system component installer”* means an employee of an alarm system contractor who is engaged in a portion of alarm system installation limited to mounting alarm system raceways, boxes or system devices, and pulling of system cable.

*“Alarm system contractor”* or *“contractor”* means a person engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems in this state.

*“Alarm system installer”* means a person who is engaged in the layout, installation, repair, alteration, addition, or maintenance of alarm systems and who is certified under the provisions of this chapter to perform work authorized by that certification and any endorsement pertaining thereto. An alarm system installer shall be an employee of an alarm system contractor or, if employed by anyone other than an alarm system contractor, shall perform work requiring certification as an alarm system installer only on property owned or occupied by such employer.

*“Alarm system installer assistant”* means a person who is engaged in the layout, installation, repair, alteration, addition, or maintenance of alarm systems under the direct supervision of an alarm system installer.

*“Alarm system maintenance inspection installer”* means an employee of an alarm system contractor who is engaged in maintenance inspection of alarm systems.

*“ Dwelling alarm system ”* means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a fire alarm, nurse call or security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a single-family dwelling or a single dwelling unit of a multifamily residential building and not interconnected with another dwelling alarm system. A dwelling alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

*“Fire alarm system”* means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals that serves the general fire alarm needs of a building or buildings and that provides fire department or occupant notification or both. A fire alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

*“Installation”* means hanging electrical conduits, raceways or boxes; mounting system devices; pulling system cable; activating system-initiating devices and system control units or verifying system operations to meet specifications; and performing system acceptance testing.

*“Layout”* means drawings, calculations and component specifications to achieve the specified system design installation. “Layout” does not include design.

*“Listed”* means equipment, materials, or services included in a list published by a nationally recognized independent testing organization that is concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

*“Maintenance inspection”* means periodic inspection and certification completed by an alarm system contractor or installer. For purposes of this chapter, “maintenance inspection” does not include an inspection completed by a building official or fire inspector when acting in an official capacity, or an insurance inspector employed by an insurance company licensed to do business in Iowa.

*“NBFAA”* means the National Burglar and Fire Alarm Association, 2300 Valley View Lane, Suite 230, Irving, Texas 75062.

NOTE: As of July 1, 2008, the Web site of the NBFAA is <http://www.alarm.org/>.

*“NICET”* means the National Institute for Certification in Engineering Technologies, 1420 King Street, Alexandria, Virginia 22314-2794.

NOTE: As of July 1, 2008, the Web site of NICET is <http://www.nicet.org/>.

*“Nurse call system”* means a nurse call system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a nurse call system or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a facility required to be licensed or certified by the state pursuant to Iowa Code chapter 125, 135B, 135C, 135G, 135H, 135J, 231C, or 231D, or installed in a facility operating pursuant to Iowa Code chapter 218, 219, 223, 225, 233A, or 233B, to initiate response of on-site medical care providers.

*“Responsible managing employee”* means an owner, partner, officer, or manager employed full-time by an alarm system contractor who is designated as a responsible managing employee for an alarm system contractor and who meets the requirements for a responsible managing employee established in rule 661—277.3(100C).

*“Security alarm system”* means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a building or facility to detect unauthorized entry into a building or portion of a building and to notify security personnel or building occupants or both.

**661—277.3(100C) Responsible managing employee.** Each alarm system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 277.1(2). If more than one responsible managing employee is designated, the contractor shall indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

**277.3(1)** The responsible managing employee or employees shall be designated in the application for certification; and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the fire marshal, in writing, within 30 calendar days, on a form designated by the fire marshal.

**277.3(2)** If a responsible managing employee is no longer acting in the role of responsible managing employee and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee shall become the responsible managing employee and the contractor shall so notify the fire marshal, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the fire marshal shall indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

**277.3(3)** If a responsible managing employee designated by an alarm system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the fire marshal, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity, on a form designated by the fire marshal. If the fire marshal has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the fire marshal shall suspend the certification of the alarm system contractor.

**277.3(4)** A responsible managing employee or an alternate responsible managing employee shall meet one of the following requirements:

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

- a. Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design.
- b. For fire alarm system endorsement, current certification by NICET at level III or higher as a fire alarm systems technician.
- c. For nurse call system endorsement, current certification by a nurse call system manufacturer or current NICET level II certification or higher in fire alarm systems or audio systems.
- d. For security alarm system endorsement, current certification by NBFAA as an advanced alarm system technician (level II) or higher, or NICET level II certification or higher in fire alarm systems.
- e. For alarm system maintenance inspection endorsement, current certification by NBFAA as an advanced alarm technician (level II), or NICET level II certification or higher in fire alarm systems.
- f. For dwelling unit alarm system endorsement, current certification by NBFAA as an alarm technician (level I) or higher, or NICET level I certification or higher in fire alarm systems.
- g. For any endorsement, completion of any third-party training or certification approved by the fire marshal, as provided in subrule 277.3(5), for that endorsement.
- h. Prior to October 1, 2010, an alarm system contractor may receive provisional certification if the person designated as the contractor's responsible managing employee provides documentation that procedures have been initiated for obtaining required qualifications for the endorsement requested. Provisional certification shall not be recognized on or after October 1, 2011. Documentation may include an affidavit completed by the applicant if documentation is not available from the testing organization.

EXCEPTION: Provisional certification for fire alarm endorsement shall be recognized until October 1, 2013, provided that by no later than October 1, 2011, the responsible managing employee for a contractor with this provisional endorsement shall have achieved NICET level II certification in fire alarm systems.

**277.3(5)** In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the fire marshal, such approval is required prior to acceptance of the training or testing to meet certification requirements. Approval by the fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the fire marshal. Any individual, firm or organization seeking to obtain such approval may apply to the fire marshal. An application form for approval of a testing or training program may be obtained by contacting the alarm system contractor and installer certification program as specified in subrule 277.1(4).

**277.3(6)** Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee.

**277.3(7)** Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the fire marshal or local fire ordinance or standard adopted by reference therein.

**661—277.4(100C) Contractor certification requirements.** An alarm system contractor shall meet all of the following requirements in order to receive certification from the fire marshal and shall continue to meet all requirements throughout the period of certification. The contractor shall notify the fire marshal, in writing, on a form designated by the fire marshal, within 30 calendar days if the contractor fails to meet any requirement for certification.

**277.4(1)** The contractor shall designate one or more responsible managing employees as provided in rule 661—277.3(100C).

**277.4(2)** The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic alarm systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

a. The carrier of any insurance coverage maintained to meet this requirement shall notify the fire marshal 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of an alarm system which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

**277.4(3)** The contractor shall maintain current registration as a contractor with the labor services division of the Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code.

EXCEPTION: A contractor shall not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of “contractor” for purposes of Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code.

**277.4(4)** The contractor shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

**661—277.5(100C) Contractor application and fees.**

**277.5(1) Application.** Any contractor seeking certification as an alarm system contractor shall submit a completed application form to the fire marshal. The application shall be filed no later than 30 days prior to the date on which certification is required or on which an existing certification expires. An application form may be obtained from the fire marshal or from the Web site of the alarm system contractor and installer certification program. The application form shall be submitted with all required attachments and the required application fee established in subrule 277.5(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The Web site for the alarm system contractor and installer certification program is: <http://www.dps.state.ia.us/fm/alarm/index.shtml>.

**277.5(2) Certification fee.** The certification fee for alarm system contractors shall be \$300 for three years. If an application for certification provides for more than one responsible managing employee pursuant to rule 661—277.3(100C), there shall be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for certification provides for more than one endorsement as provided in subrule 277.1(2), there shall be an additional fee of \$50 for each endorsement beyond the first. If an application is denied, all except \$100 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant’s knowingly including false or misleading information on the application.

**277.5(3) Payment.** The certification fee shall be submitted by draft, check, or money order in the applicable amount payable to the Department of Public Safety. The memo portion of the check, if the payment is by check, shall be completed as follows: Alarm System Contractor and Installer Certification Program.

**277.5(4) Amended certification fee.** The fee for issuance of an amended certification is \$100. The fee shall be submitted with the request for an amended certification.

a. A contractor shall request and the fire marshal shall issue an amended certificate for any of the following:

- (1) A change in the designation of a responsible managing employee;
- (2) A change in insurance coverage; or

(3) A change in any other material information included in or with the initial or renewal application. A change in the location of a business is a material change; however, no fee shall be charged for the issuance of an amended certificate if the sole reason for amending the certificate is to reflect a change in location which was necessitated by disaster emergency conditions and the business was located in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

b. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the fire marshal but shall not require issuance of an amended certification or payment of the amended certification fee.

**277.5(5) Attachments.** Required attachments to the application for certification include, but are not limited to, the following:

a. Documentation verifying that the contractor has in force the insurance coverage required by subrule 277.4(2). The documentation shall include an acknowledgment that the contractor’s insurance coverage extends to any work performed by the contractor within the scope of certification pursuant to this chapter.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

The documentation may consist of a letter from the insurance carrier or a copy of the insurance certificate with an endorsement showing the required information.

b. Documentation verifying that the person designated as the responsible managing employee and any persons designated as alternate responsible managing employees have met the applicable certification requirements.

**277.5(6) National criminal history check.** Each applicant for certification as a contractor shall submit fingerprints and the applicable fee as directed by the division of criminal investigation for a national criminal history check conducted by the Federal Bureau of Investigation.

**661—277.6(100C) Installer certification requirements.** An applicant for alarm system installer certification shall meet all of the following requirements which are applicable to the endorsements for which the applicant is applying in order to receive certification from the fire marshal and shall continue to meet all such requirements throughout the period of certification. The installer shall notify the fire marshal, in writing, on a form designated by the fire marshal, within 30 calendar days if the installer fails to meet any applicable requirement for certification.

**277.6(1)** The alarm system installer shall meet one of the following requirements:

a. Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design.

b. For fire alarm system endorsement, current certification by NICET at level II or higher in fire alarm systems or current certification by NBFAA as an advanced alarm system technician (level II) and two years of related work experience.

c. For nurse call system endorsement, current certification by a nurse call system manufacturer, documented training by the certified nurse call contractor employer, current NICET level I certification or higher in fire alarm systems or audio systems, completed certification by NBFAA as an alarm system technician (level I) or higher, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code Supplement chapter 103.

d. For security alarm system endorsement, completed certification by NBFAA as an alarm technician (level I) or higher, or current NICET level I certification or higher in fire alarm systems or audio systems.

e. For alarm system component installer endorsement, completed certification by NBFAA as an alarm technician (level I) or higher, current NICET level I certification or higher in fire alarm systems or audio systems, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code Supplement chapter 103.

f. For alarm system maintenance inspection endorsement, completed certification by NBFAA as an alarm system technician (level I) or higher, or current NICET level I certification or higher in fire alarm systems or audio systems.

g. For dwelling unit alarm system endorsement, completed certification by NBFAA as an alarm technician (level I) or higher, or current NICET level I certification or higher in fire alarm systems or audio systems, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code Supplement chapter 103.

h. For alarm system installer assistant endorsement, submission of a completed application no later than the first day of employment. An alarm system installer assistant may perform work which requires certification under this chapter only under the direct supervision of an alarm system installer whose certification contains one or more endorsements as provided in subrule 277.6(1), paragraphs “a” through “f,” and that work must be within the scope of work authorized by the endorsements held by the supervising installer.

i. For any endorsement, completion of any third-party training or certification approved by the state fire marshal as provided in subrule 277.3(5).

j. Prior to October 1, 2010, an alarm system installer may receive provisional certification if the installer provides documentation that procedures have been initiated for obtaining required qualifications for the endorsement requested. Provisional certification shall not be recognized on or after October 1, 2011. No provisional certification shall be issued for alarm system installer endorsement. Documentation may include an affidavit completed by the applicant if documentation is not available from the testing organization.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**277.6(2)** The installer shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the installer is performing work.

**277.6(3)** In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the state fire marshal, such approval is required prior to acceptance of the training or testing to meet certification requirements. Approval by the state fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the state fire marshal. Any individual, firm or organization seeking to obtain such approval may apply to the state fire marshal. An application form for approval of a testing or training program may be obtained by contacting the alarm system contractor and installer certification program as specified in subrule 277.1(4).

**277.6(4)** Work performed by an installer subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the installer and shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee of the installer's employer, unless the employer is not a certified contractor as allowed by 2008 Iowa Acts, House File 2547, section 2.

**277.6(5)** Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the fire marshal or local fire ordinance or standard adopted by reference therein.

**661—277.7(100C) Installer application and fees.**

**277.7(1) Application.** Any installer seeking certification as an alarm system installer shall submit a completed application form to the state fire marshal. The application shall be filed no later than 30 days prior to the date on which certification is required or on which an existing certification expires, except that an application for endorsement as an alarm system installer assistant shall be submitted no later than the first day of employment as an alarm system installer assistant. An application form may be obtained from the state fire marshal or from the Web site of the alarm system contractor and installer certification program. The application form shall be submitted with all required attachments and the required application fee established in subrule 277.7(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The Web site for the alarm system contractor and installer certification program is: <http://www.dps.state.ia.us/fm/alarm/index.shtml>.

**277.7(2) Certification fee.** The certification fee for an alarm system installer shall be \$150 for three years, except that the certification fee for endorsement as an alarm system installer assistant shall be \$50 for one year. There shall be an additional fee of \$25 for each endorsement beyond the first. If an application is denied, all except \$50 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant's knowingly including false or misleading information on the application.

**277.7(3) Payment.** The certification fee shall be submitted by draft, check, or money order in the applicable amount payable to the Department of Public Safety, with the memo portion of the check completed as follows: Alarm System Contractor and Installer Certification Program.

**277.7(4) Amended certification fee.**

*a.* The fee for issuance of an amended certification is \$50. The fee shall be submitted with the request for an amended certification. An installer shall request and the fire marshal shall issue an amended certificate for a change in any material information included in or with the initial or renewal application.

*b.* Other changes in the information required in the application form shall be reported to the fire marshal but shall not require issuance of an amended certification or payment of the amended certification fee.

**277.7(5) Attachments.** Required attachments to the application for certification include, but are not limited to, documentation of required certifications, licenses or training.

**277.7(6) National criminal history check.** Each applicant for certification as an installer shall submit fingerprints and the applicable fee as directed by the division of criminal investigation for a national criminal history check conducted by the Federal Bureau of Investigation.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

**661—277.8(100C) Complaints.** Complaints regarding the performance of any certified contractor or installer, failure of a certified contractor or installer to meet any of the requirements established in Iowa Code Supplement chapter 100C or this chapter or any other provision of law, or operation as an alarm system contractor or installer without certification may be filed with the state fire marshal.

**277.8(1)** Complaints should be addressed as follows:

Alarm System Contractor and Installer Certification Program

Fire Marshal Division

Iowa Department of Public Safety

215 East 7th Street

Des Moines, Iowa 50319

**277.8(2)** Complaints may be submitted by electronic mail to [alarminfo@dps.state.ia.us](mailto:alarminfo@dps.state.ia.us) or by facsimile to (515)725-6172.

**277.8(3)** Complaints should be as specific as possible and must clearly identify the contractor or installer against whom the complaint is filed. A form which may be used to file complaints is available on the Web site of the alarm system contractor and installer certification program. Complaints may be filed without using the complaint form provided, but shall be submitted in writing. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

NOTE: The Web site for the alarm system contractor and installer certification program is: <http://www.dps.state.ia.us/fm/alarm/index.shtml>.

**661—277.9(100C) Denial, suspension, or revocation of certification; civil penalties; and appeals.** The fire marshal may deny, suspend or revoke the certification of a contractor or installer or may assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as an alarm system contractor or installer is violated.

**277.9(1) Denial.** The fire marshal may deny an application for certification:

a. If the applicant makes a false statement on the application form or in any other submission of information required for certification. “False statement” means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for certification established in this chapter.

c. If the applicant is currently barred for cause from acting as an alarm system contractor or installer in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as an alarm system contractor or installer and if the basis of that action reflects upon the integrity of the applicant in operating as an alarm system contractor or installer. If an applicant is found to have been previously barred for cause from operating as an alarm system contractor or installer in another jurisdiction and is no longer barred from doing so, the fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a certified contractor or installer. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

e. If either the applicant or the designated responsible managing employee, if the application is for certification as a contractor, has been convicted of a crime which reflects upon the integrity of the applicant in operating as an alarm system contractor or installer, the fire marshal shall evaluate the conviction or convictions with regard to the likelihood that the applicant would operate with integrity as a certified contractor or installer. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

**277.9(2) Suspension.** A suspension of a certification may be imposed by the fire marshal for any violation of these rules or Iowa Code Supplement chapter 100C or for a failure to meet any legal requirement to operate as an alarm system contractor or installer in this state. Failure to provide any notice to the fire marshal as provided in these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the certification even after the period of the suspension.



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**277.9(3) Revocation.** A revocation is a termination of a certification. A certification may be revoked by the fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by an alarm system incorrectly installed by a certified contractor or installer or when information comes to the attention of the fire marshal which, if known to the fire marshal when the application was being considered, would have resulted in denial of the certification. A new application for certification from a contractor or installer whose certification had previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The fire marshal may specify in the revocation order a longer period than one year before a new application for certification may be considered. When a new application for certification from a contractor or installer whose certification was previously revoked is being considered, the applicant may be denied certification based upon the same information which was the basis for revocation even after any such period established by the fire marshal has expired.

**277.9(4) Civil penalties.** The fire marshal may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

**277.9(5) Suspension or revocation for nonpayment of child support.** The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

a. The notice required by Iowa Code section 252J.8 shall be served upon the certified contractor or installer by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the contractor or installer may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of certification of a contractor or installer, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the contractor or installer.

c. Contractors or installers shall keep the fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the fire marshal with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

d. All applicable fees for an application or reinstatement must be paid by the contractor or installer before a certificate will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a certification or has suspended or revoked a certification pursuant to Iowa Code chapter 252J.

e. In the event a contractor or installer files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension of the certification, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively within the department of public safety.

NOTE: The procedures established in subrule 277.9(5) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a certification program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

**277.9(6) Appeals.** Any denial, suspension, or revocation of a certification, or any civil penalty imposed upon a certified contractor or installer under this rule, other than one imposed pursuant to subrule 277.9(5), may be appealed by the contractor or installer within 14 days of receipt of the notice. Appeals of actions taken by the fire marshal under this rule shall be to the commissioner of public safety and shall

PUBLIC SAFETY DEPARTMENT[661](cont'd)

be treated as contested cases, following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

These rules are intended to implement Iowa Code Supplement chapter 100C as amended by 2008 Iowa Acts, House File 2547.

[Filed 8/7/08, effective 10/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

**ARC 7086B**

## **REAL ESTATE COMMISSION[193E]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 543B.54 and Iowa Code section 543B.18, the Real Estate Commission hereby adopts Chapter 22, "Operations of Grant Committee," and Chapter 23, "Grant Applications and Awards," Iowa Administrative Code.

The adoption of Chapter 22 establishes the organization and operation of the Real Estate Education Grant Committee and Chapter 23 establishes the process and requirements for grant application and awards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 18, 2008, as **ARC 6844B**. No public comment was received on the new chapters. One change has been made in subrule 23.6(3) since the Notice of Intended Action to change the verb "has begun" to "is initiated." The subrule now reads as follows:

**"23.6(3) Retention of records.** All financial and program records, supporting documents, statistical records, and other records of the grantee which are relevant to this rule shall be maintained for three years from the starting date of the grant agreement. This time period will be extended if any litigation, claim, negotiation, audit, investigation, or other action involving the records is initiated before the end of the three-year period. The extension will be for one year past the completion of all actions and the resolution of all issues which resulted in the extension of the period."

These rules were adopted by the Commission on April 17, 2008.

These rules shall become effective on October 1, 2008.

These rules are intended to implement Iowa Code Supplement section 543B.54 as amended by 2008 Iowa Acts, Senate File 2250, section 4, and Iowa Code section 543B.18.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 22, 23] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 6844B**, IAB 6/18/08.

[Filed 7/30/08, effective 10/1/08]

[Published 8/27/08]

[For replacement pages for IAC, see IAC Supplement 8/27/08.]

**ARC 7116B**

## **REGENTS BOARD[681]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby adopts an amendment to Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

The amendment revises subrule 681—1.7(262) to increase the application fee for domestic undergraduate students at the University of Northern Iowa from \$30 to \$40.

REGENTS BOARD[681](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6796B**. A comment period was established. No comments were received. The final amendment is identical to the proposed amendment.

The Board of Regents adopted this amendment on August 7, 2008.

This amendment is intended to implement Iowa Code section 262.9(3).

This amendment shall become effective on October 1, 2008.

The following amendment is adopted.

Amend rule 681—1.7(262) as follows:

**681—1.7(262) Application fees.** Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$60
Graduate/professional domestic student	\$60
Graduate/professional international student	\$85
PharmD student	\$100
Re-entry fee	\$20

Iowa State University

Undergraduate domestic student	\$30
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$70
Veterinary Medicine	\$60

University of Northern Iowa

Undergraduate domestic student	<del>\$30</del> <u>\$40</u>
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$50

This rule is intended to implement Iowa Code section 262.9(3).

[Filed 8/8/08, effective 10/1/08]

[Published 8/27/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

**ARC 7091B**

**UTILITIES DIVISION[199]**

**Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 17A.7, chapter 476B, and 2008 Iowa Acts, Senate File 2405, the Utilities Board (Board) gives notice that on July 31, 2008, the Board issued an order in Docket No. RMU-08-4, In re: Wind Energy Tax Credits, "Order Amending Rule." The Board is adopting amendments

## UTILITIES DIVISION[199](cont'd)

to 199 IAC 15.18(476B) and 15.20(476B). The amendments affect both facility eligibility and the tax credits applications for facilities qualified under Iowa Code chapter 476B.

The adopted amendments reflect changes made to Iowa Code chapter 476B in Senate File 2405, which was passed during the 2008 General Assembly. Senate File 2405 amended Iowa Code chapter 476B by allowing tax credits for electricity generated for on-site consumption, setting a minimum nameplate capacity of 2 megawatts for eligibility applications filed after March 1, 2008, and extending the in-service deadline for eligible projects by three years (from July 1, 2009, to July 1, 2012).

Notice of Intended Action in Docket No. RMU-08-4 was published in IAB Vol. XXX, No. 26 (6/18/2008), p. 1799, as **ARC 6847B**. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) and Interstate Power and Light Company (IPL) filed written comments and offered oral comments at the oral presentation on July 15, 2008. The Iowa Association of Electric Cooperatives (IAEC) also offered oral comments.

Consumer Advocate supported the proposed rules. IPL was generally supportive, but was concerned that the new rules could potentially cause a facility owner to believe that the amendments to Iowa Code chapter 476B and the proposed rules expanded the opportunities for net metering. IPL also suggested that it might not be necessary to differentiate the tax credits for energy sales from those awarded for on-site consumption and, therefore, total generation alone would be sufficient for awarding the tax credits pursuant to 199 IAC 15.20(476B). IPL suggested changes to the proposed rules to address these issues, but the changes suggested in its written comments were problematic because Iowa Code chapter 476B differentiates between on-site consumption and energy sales (requiring a total for each). In addition, IPL's suggestion to always require an executed purchase power agreement or interconnection agreement is not workable because Iowa Code chapter 476B requires no such agreement for on-site consumption, and such a requirement would pose an unnecessary barrier for eligibility.

The issues raised by IPL were discussed at the oral presentation and it was determined that both of IPL's issues could be addressed by clarifying that the term "on-site consumption" refers to wind energy production that is not sold. No objections were made to this change to the proposed rules. It is important to note that rules proposed by the Board were not intended to change in any way the net metering tariffs that have been approved for Iowa's rate-regulated electric utilities; Iowa Code chapter 476B relates only to tax credits, not net metering policy or practice.

The IAEC pointed out that it might not always be appropriate to classify "excess generation" from net metering as "on-site consumption" because under the net metering tariffs in effect for IPL and MidAmerican Energy Company, excess generation is carried forward for future months and may never actually be consumed. Consumer Advocate pointed out that the proposed change to the definition of "on-site consumption" appears to fulfill the broad intent of Senate File 2405 by encouraging wind energy production by extending the tax credits to wind energy that is produced but not sold.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to these adopted amendments.

These amendments will become effective on October 1, 2008.

These amendments are intended to implement Iowa Code chapter 476B as amended by 2008 Iowa Acts, Senate File 2405.

The following amendments are adopted.

ITEM 1. Amend subparagraph **15.18(1)"c"(2)** as follows:

(2) Total nameplate generating capacity rating: For applications filed on or after March 1, 2008, the facility must have a combined nameplate capacity of no less than 2 megawatts;

ITEM 2. Amend subparagraph **15.18(1)"c"(4)** as follows:

(4) The date the facility is expected to be placed in service (that is, placed in service on or after July 1, 2005, but before ~~January 1, 2009~~ July 1, 2012, for eligibility under Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179).

## UTILITIES DIVISION[199](cont'd)

ITEM 3. Reletter paragraphs **15.18(1)“d”** and **“e”** as **“e”** and **“f.”**

ITEM 4. Adopt the following **new** paragraph **15.18(1)“d”**:

*d.* A signed statement from the owner attesting that the owner intends to either sell all the electricity generated by the facility, consume all the electricity on site, or a combination of both. For purposes of this rule, electricity consumed on site means any electricity produced by the facility and not sold.

ITEM 5. Amend relettered paragraph **15.18(1)“e”** as follows:

*e.* ~~A~~ If the owner intends to sell electricity generated by the facility, a copy of the executed power purchase agreement or other agreement to purchase electricity. If the power purchase agreement has not yet been finalized and executed, the board will accept as an other agreement an executed agreement signed by at least two parties that includes both a commitment to purchase electricity from the facility upon completion of the project and most of the essential elements of a contract.

The board will also accept a copy of an executed interconnection agreement ~~or transmission~~ service agreement, in lieu of a power purchase agreement, if the facility owner has instead agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

ITEM 6. Amend rule **199—15.20(476B)**, introductory paragraph, as follows:

**199—15.20(476B) Applications for wind energy tax credits under Iowa Code chapter 476B.** The wind energy tax credits equal one cent per kilowatt-hour of electricity generated by ~~and purchased from~~ eligible wind energy facilities under 199 IAC 15.18(476B), which is sold or used for on-site consumption by the owner, for tax years beginning on or after July 1, 2006. The owners of an eligible facility may apply for wind energy tax credits for up to ten tax years following the date the facility is placed in service. Wind energy tax credits will not be issued for wind energy ~~purchased~~ sold or used for on-site consumption after June 30, ~~2019~~ 2022. For purposes of this rule, wind energy used for on-site consumption means any electricity produced by an eligible facility and not sold.

ITEM 7. Amend subparagraph **15.20(1)“a”(6)** as follows:

(6) ~~A~~ For any electricity sold, a copy of the executed power purchase agreement or other agreement to purchase electricity. Alternatively, a copy of an executed interconnection agreement or transmission service agreement is acceptable if the owners have elected to sell electricity from the facility directly or indirectly to a wholesale power pool market.

ITEM 8. Amend subparagraph **15.20(1)“a”(7)** as follows:

(7) ~~A~~ For any electricity sold, the owner must provide a statement attesting that the electricity for which tax credits are sought has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the wind energy tax credits, the definition of “related person” is the same as specified in department of revenue subrules 701 IAC 42.25(2) and 52.26(2). That is, the definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

For any electricity used for on-site consumption, the owner must provide a signed statement attesting under penalty of perjury that the electricity for which tax credits are sought was generated by the eligible facility and not sold.

ITEM 9. Amend subparagraph **15.20(1)“a”(8)** as follows:

(8) The date that the eligible facility was placed in service (that is, between July 1, 2005, and ~~January 1, 2009~~ July 1, 2012).

ITEM 10. Amend subparagraph **15.20(1)“a”(10)** as follows:

(10) ~~Invoices~~ For any electricity sold, invoices or other information that documents the number of kilowatt-hours of electricity generated by the eligible facility and sold to an unrelated purchaser during the tax year.

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For any electricity used for on-site consumption, the number of kilowatt-hours of electricity generated by the eligible facility during the tax year and not sold.

ITEM 11. Amend subparagraph **15.20(1)“b”(3)** as follows:

(3) Whether the reported kilowatt-hours of electricity generated by ~~and purchased from~~ the facility and sold or used by the owner for on-site consumption during the tax year seem accurate and eligible for wind energy tax credits.

[Filed 7/31/08, effective 10/1/08]

[Published 8/27/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/08.

AGENCY	RULE	DELAY
Public Health Department[641]	ch 50 [IAB 7/30/08, <b>ARC 7023B</b> ]	Effective date of September 3, 2008, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 12, 2008. [Pursuant to §17A.4(6)]

### **Environmental Protection Commission**

At its August 12, 2008 meeting the Administrative Rules Review Committee voted to object to the "emergency" adoption of ARC 6921B, amending rule 567 IAC 1.6. This filing was published in IAB Vol. XXX, No. 01 (7-02-2008). The effective of this objection is to terminate the "emergency" filing 180 days following the filing of this objection.

Rule 1.6 relates to the quorum requirements for Commission meetings. Under this emergency filing the required number of affirmative votes for official action will vary depending on the number of commissioners currently appointed by the Governor. Essentially the rule provides that that four votes are sufficient to take action when there are only seven appointed members.

The substance of new quorum requirement is within the authority of the Commission, as set out in Iowa Code §455A.6. Discussion at the Administrative Rules Review Committees' June and July meetings indicated that commission members felt that the emergency adoption was necessary due to unfilled vacancies on the commission which resulted in "delayed Agency action, gridlock, and stalemate, with the minority at times deciding an issue." Rules Committee members felt these problems, while an impediment to efficient Commission operation, did not rise to the level of a true emergency, which would outweigh the value of notice and an opportunity for public participation. The notice and public participation requirements of the rulemaking process are to be construed broadly (see: §§17A.23); this requirement is best served by narrowly applying the grounds for "emergency" rule filing.

Objection filed August 12, 2008